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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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NELSON QUINTANILLA, ALEJANDRO AMAYA, ALEX AMIR  
AREVALO, MAYNOR FAJARDO, WALTER GARCIA, JOSE L.  
MARTINEZ, PRACELIS MENDEZ, OSMAR W. PAGOADA,  
JAVIER QUINTANILLA, EDWIN RIVERA, CARLOS ESCALANTE,  
KEVIN GALEANO, LERLY NOE RODRIGUEZ, JOSE VEGA  
CASTILLO, JUAN QUINTEROS, and MARCUS TULIO  
PEREZ,

Plaintiffs,

-against-

Case No:  
09-CV-5331

SUFFOLK PAVING CORP., SUFFOLK ASPHALT CORP.,  
LOUIS VECCHIA, CHRISTOPHER VECCHIA,  
HELENE VECCHIA, and JOHN DOES 1-5,

Defendants.

-----X  
September 23, 2011  
11:35 a.m.

4875 Sunrise Highway  
Bohemia, New York

EXAMINATION BEFORE TRIAL of WALTER GARCIA,  
one of the Plaintiffs herein, taken by the  
Defendants, pursuant to Article 31 of the Civil  
Practice Law and Rules of Testimony, and Notice  
and order, held at the above-mentioned time and  
place, before Karen LaMendola, a Professional  
Court Reporter and Notary Public of the State of  
New York.

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2 A P P E A R A N C E S:

3

4 LAW OFFICES OF LAUREN GOLDBERG, PLLC  
5 Attorneys for Plaintiffs  
6 501 Fifth Avenue  
7 New York, New York 10017

6

BY: LAUREN GOLDBERG, ESQ.

7

8

9 LAW OFFICES OF PATRICK E. McNAMARA  
10 Co-Counsel for Plaintiffs  
11 868 Little East Neck Road  
12 West Babylon, New York 11704

10

11 BY: PATRICK McNAMARA, ESQ.

12

13 LAW OFFICES OF IAN WALLACE  
14 Co-Counsel for Plaintiffs  
15 501 Fifth Avenue  
16 New York, New York 10017

15

(NOT PRESENT)

16

17

18 ZABELL & ASSOCIATES, P.C.  
19 Attorneys for Defendants  
20 4875 Sunrise Highway  
21 Bohemia, New York 11716

19

20 BY: SAUL ZABELL, ESQ.

21

22

23 ALSO PRESENT:

24 Adriana Carini, Spanish Interpreter

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED  
by and between the attorneys for the  
respective parties herein, that filing, sealing  
and certification be and the same are hereby  
waived.

IT IS FURTHER STIPULATED AND AGREED  
that all objections, except as to the form  
of the question shall be reserved to the time of  
the trial.

IT IS FURTHER STIPULATED AND AGREED  
that the within deposition may be  
signed and sworn to before any officer  
authorized to administer an oath, with the same  
force and effect as if signed and sworn to  
before the Court.

1

2       A D R I A N A   C A R I N I, the Spanish  
3           Interpreter herein, was duly sworn to  
4           interpret the questions from English into  
5           Spanish and the answers from Spanish into  
6           English to the best of her ability:

7       W A L T E R   G A R C I A, the Witness herein,  
8           having been duly sworn through the  
9           Interpreter, was examined and testified as  
10          follows:

11       EXAMINATION BY

12       MR. ZABELL:

13           Q       Would you please state your full  
14           name for the record.

15           A       Walter Garcia.

16           Q       What is your current address?

17           A       236 Messina Street, Central Islip,  
18           New York 11722.

19           Q       Mr. Garcia, how are you today?

20           A       Very well.

21           Q       You understand you're at a  
22           deposition; do you not?

23           A       Yes.

24           Q       At this deposition, I'm going to  
25           be asking you questions.

1 W. Garcia

2 Do you understand that?

3 A Yes.

4 Q You're required to provide answers  
5 to the questions I ask you.

6 Do you understand?

7 A Yes.

8 Q If you do not understand a  
9 question I ask you, have an obligation to tell  
10 me you do not understand the question.

11 Do you understand that?

12 A Yes.

13 Q If you provide an answer to a  
14 question I ask you, it will be assumed that you  
15 understood it.

16 Did you understand that?

17 A Yes.

18 Q When was the last time you drank  
19 any alcohol?

20 A Eight years, seven years.

21 Q Your eyes look a little bloodshot.

22 Is there any reason why?

23 A None.

24 Q Have you used any drugs today?

25 A No.

1 W. Garcia

2 Q Yesterday?

3 A No.

4 Q In the past week?

5 A No.

6 Q Why are you laughing?

7 A It's been a long time since I  
8 stopped doing that.

9 Q How long since you stopped doing  
10 drugs?

11 A Seven years, eight years. No, no,  
12 no, drugs. I drank.

13 Q A lot?

14 A No, once in a while.

15 Q Didn't you just say you drank  
16 seven or eight months ago?

17 MR. McNAMARA: Objection.

18 A No, eight years.

19 Q How old are you?

20 A Thirty-four.

21 Q And you drank eight years ago?

22 A Yes.

23 Q What's your date of birth?

24 A 

25 Q What was your name at birth?

1 W. Garcia

2 A The same one; Walter Garcia.

3 Q You just have two names?

4 A My middle name is Amilcar. My  
5 second name is Amilcar.

6 Q How do you spell that?

7 A A-M-I-L-C-A-R.

8 Q Have you ever told an employer  
9 that you possessed a name, other than  
10 Walter Garcia?

11 A No, I've only used Walter A. Garcia.

12 Q You have never used any other  
13 name?

14 A Never, never.

15 Q You understand that you are under  
16 oath here today; correct?

17 A Yes.

18 Q And the testimony you give under  
19 oath has the same effect as if you were  
20 testifying before a Judge in Court.

21 A I know that.

22 Q There are penalties for not  
23 telling the truth.

24 Do you understand that?

25 A Yes.

1 W. Garcia

2 Q Are you currently employed?

3 A Yes.

4 Q Where are you currently employed?

5 A In Pioneer.

6 Q Pioneer what?

7 A Pioneer Asphalt.

8 Q When did you start work at

9 Pioneer Asphalt?

10 A In March of this year.

11 Q Where did you work prior to

12 working at Pioneer Asphalt in March?

13 A I worked for five companies last

14 year.

15 Q What are the names of those five

16 companies?

17 A Safar (phonetic) Asphalt,

18 Tri-State Paving, Banker (phonetic) Construction,

19 Intercounty, and Newborn.

20 Q What's Newborn?

21 A Asphalt, as well.

22 Q 

23 A  .

24 Q Do you have a Social Security

25 number?



1 W. Garcia

2 A Yes.

3 Q What is it?

4 A No, I don't know if I can continue  
5 answering that.

6 Q You don't have a choice.

7 A Okay, but I need to speak to my  
8 attorney.

9 Q Not until you answer the question.  
10 What is your Social Security  
11 number, sir?

12 A The number that I use is the  
13 number that the company has.

14 Q What is it?

15 MR. McNAMARA: Objection.

16 I'm instructing the witness not to  
17 answer with a good-faith basis belief  
18 that this is subject to the protective  
19 order, and accordingly, I'm instructing  
20 him not to answer.

21 MR. ZABELL: It's not.

22 MR. McNAMARA: It is. Under --

23 MR. ZABELL: No, it's not.

24 I'll tell you what, Patrick, if  
25 you want to take an opportunity to speak

1 W. Garcia

2 to him and tell him he can assert his  
3 Fifth Amendment right --

4 MR. McNAMARA: He doesn't need to  
5 do that.

6 MR. ZABELL: Yes, he does.

7 MR. McNAMARA: He does not have to  
8 do that.

9 MR. ZABELL: Yes, he does.

10 Do I need to call the Court?

11 MR. McNAMARA: Yes, we can speak  
12 to the Court.

13 MR. ZABELL: Okay.

14 MR. McNAMARA: He doesn't need to  
15 do that.

16 MR. ZABELL: He's already said  
17 that he has a Social Security number, and  
18 he's just refusing to tell me.

19 MR. McNAMARA: Okay. And we are  
20 asserting the protective order here.

21 MR. ZABELL: His Social Security  
22 number is not covered under the  
23 protective order.

24 MR. McNAMARA: My understanding is  
25 that anything that would lead to issues

1 W. Garcia

2 regarding their immigration status is  
3 subject to the protective order.

4 MR. ZABELL: Social Security  
5 number is -- you can be an illegal  
6 immigrant and still have a  
7 Social Security number. He said he has a  
8 Social Security number. He is refusing  
9 to provide it. I don't know why.

10 If he tells you outside that he's  
11 refusing to provide that Social Security  
12 number because it's false or fraudulent,  
13 he's afraid he's going to get arrested,  
14 well, then, you can tell him that because  
15 you've identified that you have a  
16 Social Security number, you can go in  
17 there and assert your Fifth Amendment  
18 right.

19 MR. McNAMARA: That's not how the  
20 protective order works.

21 MR. ZABELL: That's exactly how it  
22 worked in all the other cases. Why don't  
23 you take a minute and speak to him.

24 MR. McNAMARA: I'm going to speak  
25 to him outside but --

1 W. Garcia

2 MR. ZABELL: Why don't you go take  
3 a minute and speak to him. Explain to  
4 him the dangers.

5 MR. McNAMARA: I got it.

6 (Whereupon, a recess was taken at  
7 this time from 11:45 a.m. until  
8 12:01 p.m.)

9 MR. McNAMARA: As we said before,  
10 we believe that this is governed under  
11 the protective order, and I'm directing  
12 the witness not to answer.

13 Q Did you ever give any of your  
14 employers a Social Security number?

15 A Do I have to answer that?

16 Q Yes, you do.

17 A Yes.

18 Q What Social Security number did  
19 you give your employer?

20 MR. McNAMARA: Objection.

21 I'm directing the witness not to  
22 answer.

23 MR. ZABELL: You can't. You see,  
24 if he gave different Social Security  
25 numbers, we have a right to look him

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W. Garcia

up -- we believe he's also given a different name -- we have a right to look him up by Social Security number to look at the various places he has worked, and also to cross-reference his testimony today with the employer that he is suing, or the two employers that he's suing. We can cross-reference his schedule that way.

He said he has provided that information. Now, he has no way out of not answering this, other than saying that he pleads the Fifth Amendment, because he feels that by revealing this information, he implicated himself in a crime.

MR. McNAMARA: No, he does not have to answer. The fact that you have a legitimate reason for wanting his Social Security number does not mean that he has to give it to you when there is a protective order.

MR. ZABELL: Are you acknowledging that I have a legitimate reason?

1 W. Garcia

2 MR. McNAMARA: You may or you may  
3 not. I'm not saying whether you do or  
4 not. I'm saying that you may, but I'm  
5 directing him not to answer.

6 MR. ZABELL: What is your basis?

7 MR. McNAMARA: That his answering  
8 could lead to immigration status  
9 information.

10 MR. ZABELL: Well, what if I tell  
11 you that I'm not going to ask any  
12 information about that Social Security  
13 number or numbers --

14 MR. McNAMARA: You already did.

15 MR. ZABELL: -- stop.

16 -- beyond the identification of  
17 what those numbers are?

18 MR. McNAMARA: It's not -- I'm not  
19 letting him answer.

20 MR. ZABELL: Let's mark it because  
21 we're waiting for a call back from the  
22 Judge, and when the Judge calls, we'll  
23 address it. If not, we'll probably  
24 address it at 12:45 when we break to call  
25 the Court.

1 W. Garcia

2 MR. McNAMARA: Okay.

3 Q Did you ever file income returns?

4 A Yes.

5 Q What Social Security number do you  
6 put on those income tax returns?

7 MR. McNAMARA: Objection. I'm  
8 directing the witness not to answer.

9 MR. ZABELL: On what basis?

10 MR. McNAMARA: The same basis that  
11 we discussed five minutes ago.

12 Q Have you ever provided more than  
13 one Social Security number to an employer?

14 MR. McNAMARA: Objection.

15 I'm directing the witness not to  
16 answer.

17 MR. ZABELL: What's the basis for  
18 that?

19 I'm not asking what the  
20 Social Security number is. I'm asking  
21 him if he has ever provided more than  
22 one.

23 MR. McNAMARA: The protective  
24 order is the basis, and, Counselor, we've  
25 been through it before.

1 W. Garcia

2 MR. ZABELL: Okay, you know what?

3 I don't want to wait for the Court to  
4 call back. I want to address this now.

5 MR. McNAMARA: Okay. I'm going to  
6 continue --

7 MR. ZABELL: Well, you can't  
8 continue when the Court directs you --

9 MR. McNAMARA: Obviously.

10 MR. ZABELL: -- or to have him  
11 provide an answer. You know what? We'll  
12 wait until 12:45. I'm okay with that.

13 Q I believe you testified you worked  
14 for a company called Safar Asphalt; do you  
15 recall that?

16 A Yes.

17 Q How did they pay you?

18 A Check.

19 Q Was that a check made out to the  
20 name Walter Garcia?

21 A Yes.

22 Q You said you worked for a company  
23 call Tri-State; do you recall that?

24 A Yes.

25 Q How did they pay you?



1 W. Garcia

2 A Check.

3 Q Did they pay you in a check for  
4 all your hours of work?

5 A Yes.

6 Q Did Safar Asphalt pay you in a  
7 check for all your hours of work?

8 A Yes.

9 Q You said you worked for a company  
10 called Banker Construction?

11 A Yes.

12 Q How did they pay you?

13 A By check.

14 Q Did they pay you in a check for  
15 all the hours of work?

16 A Yes.

17 Q You said you worked for a company  
18 called Intercounty; do you recall that?

19 A Yes.

20 Q Did they pay you by check?

21 A Yes.

22 Q Did they only pay you by check?

23 A Yes.

24 Q Did they pay you by check for all  
25 of your hours of work?

1 W. Garcia

2 A Yes.

3 Q Did you work for a company called  
4 Newborn Asphalt?

5 A Yes.

6 Q How did they pay you?

7 A By check.

8 Q Did they pay you in anything else  
9 but a check?

10 A No, only check.

11 Q When did you work for Intercounty?

12 A Approximately, June of last year  
13 to November.

14 Q Did you work on any  
15 prevailing-wage jobs for Intercounty?

16 A Yes.

17 Q What did you do for Intercounty?

18 A Operating machinery.

19 Q How much did they pay you per  
20 hour?

21 A Forty-seven.

22 Q Is that all they paid you per  
23 hour?

24 A Yes.

25 Q They never paid you more than \$47

1 W. Garcia

2 per hour; is that correct?

3 A When I worked for the City, yes.

4 Q Did they ever pay you less than  
5 that?

6 A Less than \$47?

7 Q Yes.

8 A No.

9 Q Did they ever pay you more than  
10 \$47 an hour?

11 A Yes.

12 Q When?

13 A When I worked for the City.

14 Q How much did they pay you when you  
15 worked for the City?

16 A Fifty-seven.

17 Q Did they ever pay you anything  
18 else other than that?

19 A No.

20 Q Are you member of a union?

21 A Yes.

22 Q What union?

23 A It's 138.

24 Q Did Local 138 know you worked for  
25 Safar Asphalt?

1 W. Garcia

2 A Excuse me? Can you repeat that?

3 Q Did Local 138 know that you worked  
4 for Safar Asphalt?

5 A No.

6 Q Safar Asphalt is not a union  
7 company; correct?

8 A Yes.

9 Q Did you know you can lose your  
10 pension by violating that rule?

11 A I didn't know. I didn't work  
12 there much, either.

13 Q Your lawyers didn't explain that  
14 to you?

15 A (No verbal response.)

16 Q Si or no?

17 A If they explained what?

18 Q That you could lose your pension.

19 MR. McNAMARA: Objection.

20 Don't answer that.

21 Q You can answer that.

22 MR. McNAMARA: No.

23 Q You can answer.

24 MR. McNAMARA: No.

25 Q You can answer.

1 W. Garcia

2 MR. McNAMARA: No. It is subject  
3 to attorney/client privilege.

4 Don't answer.

5 Q Do you know you can lose your  
6 pension and union benefits?

7 A No, I didn't know.

8 Q No one has ever explained that to  
9 you?

10 A No.

11 Q Don't you think they should have?

12 MR. McNAMARA: Objection.

13 Q You can answer.

14 A (No verbal response.)

15 Q Don't you think they should have?

16 A I don't know. I didn't know.

17 Q Did the union know you worked for  
18 Tri-State?

19 A No, they didn't know.

20 Q Did they know you worked for  
21 Banker Construction?

22 A They did.

23 Q Is Banker Construction a union  
24 company?

25 A Yes.

1 W. Garcia

2 Q The union knew you worked for  
3 Intercounty; right?

4 A Yes.

5 Q They didn't know you worked for  
6 Newborn Asphalt; correct?

7 A Yes, they know.

8 Q How do you know they knew?

9 A Because the union sent me there to  
10 work.

11 Q Do you speak English?

12 A I speak English enough to work.

13 Q Do you write English?

14 A The same. Enough to be able to  
15 explain.

16 Q Do you write in Spanish?

17 A Yes.

18 Q Did you prepare for this  
19 deposition in any way?

20 A No.

21 Q Did you meet with your attorneys  
22 at any time?

23 A No -- well, yes, but not before  
24 coming here.

25 Q So why would you say no, if you

1 W. Garcia

2 did meet with them?

3 A But not precisely for this.

4 Q But you met with them?

5 A Yes.

6 Q Please don't lie to me.

7 MR. McNAMARA: Objection.

8 Q Okay?

9 A Okay.

10 Q We'll get along a lot better if  
11 you don't lie to me.

12 A I'm not lying.

13 Q Okay, ask your attorney. He'll  
14 tell you. We'll get along a lot better if you  
15 don't lie to me.

16 MR. McNAMARA: Objection.

17 Q Okay?

18 A Okay.

19 Q You promise not to lie?

20 A Only the truth. I've sworn.

21 Q I know you have.

22 When did you first come to the  
23 United States?

24 A In '97.

25 Q Where did you work in 1997?

1 W. Garcia

2 A In a restaurant.

3 Q What restaurant?

4 A Meehan's. That is in  
5 Huntington Village.

6 Q Did you work in 1998?

7 A Yes.

8 Q Where did you work in 1998?

9 A In the same place, Meehan's.

10 Q Did you work in 1999?

11 A Yes.

12 Q Where did you work in 1999?

13 A In the same restaurant, Meehan's.

14 Q You worked at Meehan's until what  
15 day?

16 A What day, I don't remember, but I  
17 do remember that I worked there three years.

18 Q So, 1997, 1998, and 1999?

19 A Yes.

20 Q Were you paid in cash or check at  
21 Meehan's?

22 A Cash.

23 Q Did you report that cash on your  
24 income tax return?

25 A No.



1 W. Garcia

2 Q Did you file an income tax return  
3 in 1997, 1998, or 1999?

4 A No.

5 Q Where did you work in the  
6 year 2000?

7 A Suffolk Paving.

8 Q Where did you work in 2001?

9 A In Suffolk Paving.

10 Q Where did you work in 2002?

11 A In Suffolk Paving.

12 Q Where did you work in 2003?

13 A In August, 2003, I stopped working  
14 at Suffolk Paving.

15 Q Why?

16 A Because they offered me a job  
17 earning more per hour than in Suffolk Paving.

18 Q Who offered you that job?

19 A Pave-Co.

20 Q Where did you work from August  
21 of 2003 to December of 2003?

22 A I worked from August 2003 until  
23 June 2005 in Pave-Co.

24 Q Where did you work after June  
25 of 2005?

1 W. Garcia

2 A I returned to Suffolk Paving.

3 Q Where did you work in 2007?

4 A In Pave-Co.

5 Q Where did you work in 2008?

6 A Suffolk Asphalt.

7 Q Where did you work in 2009?

8 A Suffolk Asphalt.

9 Q Where did you work in 2010?

10 A In the companies that I said.

11 Q Say them again.

12 A Safar, Tri-State, Intercounty

13 Banker, Newborn.

14 Q In 2009, you testified that you  
15 worked for Suffolk Asphalt; correct?

16 A Yes.

17 Q Did you work for any companies,  
18 other than Suffolk Asphalt in 2009?

19 A No.

20 Q In 2008, you testified that you  
21 worked for Suffolk Asphalt; is that correct?

22 A Yes.

23 Q Did you work for any companies,  
24 other than Suffolk Asphalt in 2008?

25 A I started working in April

1 W. Garcia

2 of 2008, and in January to April, I worked at  
3 Pave-Co.

4 Q So you're saying in January  
5 through what month?

6 A April.

7 Q January through April, you worked  
8 for Pave-Co; is that what your testimony is?

9 A I worked in 2007 for Pave-Co until  
10 April 2008.

11 Q In 2006, you testified you worked  
12 for Suffolk Paving; is that correct?

13 MR. McNAMARA: Objection.

14 A (No verbal response.)

15 Q Yes?

16 A Yes.

17 Q Did you work for any companies,  
18 other than Suffolk Paving in 2006?

19 A No.

20 Q In 2005, who did you work for?

21 A The same thing; for Pave-Co and  
22 for Suffolk.

23 Q When did you work for Suffolk?

24 MR. McNAMARA: Objection.

25 A (No verbal response.)

1 W. Garcia

2 Q When in 2005 did you work for  
3 Suffolk?

4 MR. McNAMARA: Objection.

5 A I am trying to remember.

6 Q Try.

7 A In June, I started to work in  
8 Suffolk.

9 Q Really? Because you just  
10 testified that you worked for Pave-Co in June  
11 of 2005.

12 MR. McNAMARA: Objection.

13 Q Are you lying to me?

14 MR. McNAMARA: Objection.

15 A I am not lying.

16 Q Well, you just testified in June  
17 of 2005, you worked for Pave-Co.

18 MR. McNAMARA: Objection.

19 A (No verbal response.)

20 Q The record takes down everything  
21 you say. You can't lie here.

22 A Maybe I made a mistake, but I know  
23 that in June of 2005, I worked for Suffolk.

24 Q So before you lied to me when you  
25 said you worked for Pave-Co?

1 W. Garcia

2 MR. McNAMARA: Objection.

3 A I worked in Pave-Co 2003 to --  
4 from August 2003 to June 2005.

5 Q So you're testifying that you  
6 worked for Pave-Co from August 2003 to June  
7 of 2005 now?

8 A That's what I said before.

9 Q Are you sure?

10 MR. McNAMARA: Objection.

11 A Sure.

12 Q After June of 2005, who did you  
13 work for?

14 MR. McNAMARA: Objection.

15 A For Suffolk.

16 Q Suffolk what?

17 A Suffolk Paving.

18 Q And only Suffolk Paving; correct?

19 A Yes.

20 Q Who did you work for in 2002?

21 MR. McNAMARA: Objection.

22 A Suffolk Paving.

23 Q Did you work for anybody else,  
24 other than Suffolk Paving, in 2002?

25 MR. McNAMARA: Objection.

1 W. Garcia

2 A No.

3 Q In 2001, who did you work for?

4 MR. McNAMARA: Objection.

5 A For Suffolk Paving.

6 Q And only Suffolk Paving?

7 A Yes.

8 Q Suffolk Paving gave you a paycheck  
9 for each week you worked; correct?

10 A Yes.

11 Q The hours that you worked were  
12 reflected on the paycheck; correct?

13 A Not the ones I worked.

14 Q So there were hours on all of your  
15 paychecks?

16 A There were hours that I worked,  
17 hours that they paid me, but not the hours that  
18 I worked.

19 Q So you're saying that there were  
20 hours that you worked on your paycheck; correct?

21 A But not all.

22 Q When you worked for  
23 Suffolk Asphalt, you received weekly paychecks;  
24 correct?

25 A Yes.

1 W. Garcia

2 Q Those paychecks reflected the  
3 hours that you worked; correct?

4 A Not the ones that I worked.

5 Q So you were paid for hours that  
6 you didn't work?

7 MR. McNAMARA: Objection.

8 A They paid me the ones that he  
9 wanted to pay me, not the ones that I worked. I  
10 worked more than those.

11 Q In 2009, how many hours did you  
12 work?

13 A Weekly, we only worked fifty to  
14 seventy hours.

15 Q Every week you worked fifty to  
16 seventy hours?

17 A Yes, and sometimes seventy, fifty.

18 Q What if it was a rainy day like  
19 today; would you work on a day like today?

20 A Yes. They sent us to work, but if  
21 it was in the morning and it was raining, then  
22 we didn't work, but if we were already at work  
23 and it rained later, then we'd still work.

24 Q So there were some days that you  
25 didn't work because of rain, correct?

1 W. Garcia

2 A Yes.

3 Q There were some days in the winter  
4 where you couldn't work because it was cold;  
5 correct?

6 A Yes.

7 Q And there was sometimes when there  
8 wasn't work to be done; correct?

9 A There was always work.

10 Q Sometimes there was no work, and  
11 you were sent home, because there was no work to  
12 do; correct?

13 All your coworkers already  
14 testified to it.

15 A Again, can you ask me the  
16 question?

17 Q No, answer it.

18 A No, what you said at first.

19 Q Yes, answer it.

20 MR. McNAMARA: Objection.

21 A I don't remember what you said.

22 Q Are you not listening to the  
23 questions I'm asking you?

24 MR. McNAMARA: Objection.

25 A The first one, yes, but then you



1 W. Garcia

2 confused me with the other one you asked.

3 Q Go ahead, answer the first one.

4 A I'm not sure what it is that you  
5 said to me.

6 Q Are you playing games, sir?

7 MR. McNAMARA: Objection.

8 A No. I just want to be sure of  
9 what I'm going to say.

10 Q Just say the truth. I'm sure  
11 somebody told you to say that.

12 MR. McNAMARA: Objection.

13 A No, no.

14 Q No, nobody told you to tell the  
15 truth?

16 MR. McNAMARA: Objection.

17 A The truth, yes. That's why I want  
18 to say, the truth, but I want to be sure of what  
19 it is that you said.

20 Q Right. I told you to say the  
21 truth; correct?

22 MR. McNAMARA: Objection.

23 A Yes.

24 Q You promised me you would tell the  
25 truth; correct?

1 W. Garcia

2 MR. McNAMARA: Objection.

3 A Yes.

4 Q Stop playing games and answer the  
5 question.

6 MR. McNAMARA: Objection.

7 A If you ask me the question again,  
8 I will answer it, but you confused me with the  
9 second question you asked.

10 Q There were times when you didn't  
11 work a full week, because there was not enough  
12 work; correct?

13 A There was always work. Sometimes  
14 we didn't work, but it was because of rain.

15 Q What about snow?

16 A In December to March, we didn't  
17 work.

18 Q You never worked in December to  
19 March?

20 A Suffolk Paving would call me to go  
21 clean up snow.

22 Q I thought you just said you didn't  
23 work from December to March.

24 Are you lying?

25 MR. McNAMARA: Objection.

1 W. Garcia

2 A He would pay us. He would pay us  
3 cash.

4 Q How much cash?

5 A \$20 an hour.

6 Q That's what you got paid; \$20 an  
7 hour; correct?

8 A Yes.

9 Q How often did you get paid in cash  
10 from Suffolk Asphalt?

11 A Only for the snow.

12 Q You never got any cash payments  
13 from Suffolk Asphalt, other than in December  
14 through March?

15 A Yes, sometimes.

16 Q Okay. How much would you get?

17 A When we didn't work -- well, when  
18 there was a job like a driveway, he would pay  
19 us -- he would pay me \$200 a week -- I'm sorry,  
20 a day.

21 Q \$200 a day?

22 A Yes.

23 Q What did you do with that money?

24 A I would take it to bring food to  
25 my kids.

1 W. Garcia

2 Q How many children do you have?

3 A Three.

4 Q How old are they?

5 A Eleven, nine, and one year.

6 Q Do you live with your children?

7 A Yes.

8 Q Where do you live with your  
9 children?

10 A In the [REDACTED]

11 Q What town is that?

12 A Central Islip.

13 Q Are you married?

14 A Yes.

15 Q What is your wife's name?

16 A Nellie Garcia.

17 Q When did you marry Nellie Garcia?

18 A In the year, I don't remember, but

19 I do remember that it was June 10th.

20 Approximately, six or seven years.

21 No, no, no, no, no. Nine years,  
22 eight years.

23 Q You don't know when you married  
24 your wife?

25 A I only remember the date, but the

1 W. Garcia

2 year, I don't remember.

3 Q Do you have a marriage license?

4 A Yes.

5 Q From where?

6 A Huntington.

7 Q You just don't know the year that  
8 you married her?

9 A I don't remember.

10 Q Is she your only wife?

11 A Yes.

12 Q The three children that you  
13 identified, the eleven-year-old, the  
14 nine-year-old, and the one-year-old, those are  
15 your only children?

16 A Yes.

17 Q Do you own your home at

18 

19 A No.

20 Q Do you rent?

21 A Yes.

22 Q Do you rent a home or an  
23 apartment?

24 A An apartment.

25 Q Do you own a vehicle?

1 W. Garcia

2 A Yes.

3 Q What vehicle do you own?

4 A Nissan Altima.

5 Q For how long have you had a

6 Nissan Altima?

7 A Four or five years.

8 Q Four or five years?

9 A Yes, about four or five.

10 Q Do you have a driver's license?

11 A Yes.

12 Q May I see it?

13 A Do I have to do that?

14 Q Yes.

15 MR. McNAMARA: You can show him

16 your driver's license.

17 A (Witness complies.)

18 (Document consisting of a copy of

19 Mr. Garcia's driver's license was marked

20 as Defendants' Exhibit Number 11, for

21 identification, as of this date.)

22 Q Do you remember when I asked you

23 before how many names you have?

24 A Yes.

25 Q And you lied to me?

1 W. Garcia

2 A You didn't ask me or tell me about  
3 the last names.

4 Q Do you remember when you lied to  
5 me, and you said you had three names? Do you  
6 remember that you said you only went by the name  
7 of Walter Amilcar Garcia?

8 A (No verbal response.)

9 Q Why did you lie to me and not tell  
10 me that you also had the last name Mendez?

11 A Because here in the United States,  
12 only Walter A. Garcia.

13 Q Really? Because here, you  
14 indicated that it was Walter Amilcar Garcia Mendez.

15 Why did you lie to me?

16 MR. McNAMARA: Objection.

17 A (No verbal response.)

18 Q Why did you lie to me?

19 A (No verbal response.)

20 Q Why did you lie to me?

21 A No, I didn't lie.

22 Q Why did you lie to me?

23 A I didn't like. It's only that you  
24 didn't ask me for the last, last name.

25 Q Why do you have a Maryland

1 W. Garcia

2 driver's license?

3 MR. McNAMARA: Objection.

4 A Because it's more easy. It was --  
5 I had -- it was more -- it was easier to get a  
6 Maryland license.

7 Q Do you live in Maryland?

8 A No.

9 Q Have you ever lived in Maryland?

10 A Yes.

11 Q When did you live in Maryland?

12 A In 2000 -- no, in 1999, I lived  
13 there for two months.

14 Q That was the last time you lived  
15 in Maryland?

16 A Yes.

17 Q So you lied to the State of  
18 Maryland to get a driver's license; correct?

19 A No. I lived there.

20 Q In 1999; correct?

21 A For two months.

22 Q But you didn't live there in 2007;  
23 correct?

24 A No.

25 Q You didn't live at [REDACTED]



1 W. Garcia

2 A I lived there.

3 Q When?

4 A In two months in 1999.

5 Q You understand that you had to  
6 represent that you lived there in the year 2007  
7 in order to get your license; correct?

8 A (No verbal response.)

9 Q You understand that; don't you?

10 A That I -- again, please. Sorry.

11 Q Do you understand that you lied to  
12 them? You said you lived there on May 25, 2007,  
13 and you didn't. You signed a document saying  
14 that you did. Are you aware of that?

15 A (No verbal response.)

16 Q Are you aware of that?

17 A (No verbal response.)

18 Q Yes or no?

19 A Yes.

20 Q You know that that's a violation  
21 of the law?

22 A But it's needed to have an  
23 identification.

24 Q So it was necessary for you to  
25 lie. Is that what you're saying?

1 W. Garcia

2 A It's better to have an ID than not  
3 to have one.

4 Q So it's okay to lie if it's for  
5 something you need; correct?

6 MR. McNAMARA: Objection.

7 A (No verbal response.)

8 Q Right?

9 A No, no. It's not necessary to  
10 lie, but I think -- I do think that it is better  
11 to say to someone -- to a police officer, this  
12 is my license.

13 Q But it's false; correct?

14 A It's not false.

15 Q Mr. Garcia -- you go by the name  
16 of Mr. Garcia; correct?

17 A Yes.

18 Q You don't go by the name  
19 Mr. Mendez; do you?

20 A No.

21 Q You don't even use the name  
22 Mendez; right?

23 A No.

24 Q But you put it on your license;  
25 correct?

1 W. Garcia

2 A Yes.

3 Q I'm going to be asking you  
4 questions. If I ask you a yes-or-no question,  
5 you're required to provide me a yes-or-no  
6 answer.

7 Do you understand that?

8 A Yes.

9 Q Just answer the questions that I  
10 ask of you.

11 Did you understand that?

12 A Yes.

13 Q In 2007, you filled out on  
14 application to get a driver's license in  
15 Maryland; did you not?

16 A (No verbal response.)

17 Q Yes or no?

18 A No, it wasn't an application. I  
19 had my license, but I couldn't change it  
20 anymore. I had to do it in Maryland.

21 Q Why didn't you get a New York  
22 license?

23 A Because I don't have the permit,  
24 the authorization.

25 Q You don't have permission from

1 W. Garcia

2 Maryland, because you don't live there; correct?

3 A (No verbal response.)

4 Q Yes or no? Just say yes or no.

5 A It's just that it's more easier to  
6 have a license -- before, it was easier to have  
7 a license with Maryland.

8 Q So before, it was easier to lie to  
9 Maryland than it was to lie to New York;  
10 correct?

11 A (No verbal response.)

12 Q Yes or no?

13 A It's not that I had to lie to  
14 Maryland, but the laws in New York are not the  
15 same as in Maryland.

16 Q What laws are those?

17 A To have a license.

18 Q What laws are you specifically  
19 referring about?

20 A To obtain a permit, an  
21 authorization to get a license.

22 Q Are you authorized to have a  
23 license in the State of New York?

24 A No.

25 Q Why?

1 W. Garcia

2 A Because I can't.

3 Q Why?

4 A Because I can't have a license.

5 Q Why?

6 MR. McNAMARA: I'm objecting.

7 Objection.

8 MR. ZABELL: You waived the  
9 objection. He's already answered. He  
10 just didn't give a complete answer.

11 You should have objected maybe  
12 three or four questions ago.

13 MR. McNAMARA: I'm objecting now.

14 Q Have you ever been arrested?

15 A No.

16 Q Either in this country or another?

17 A In nowhere.

18 MR. McNAMARA: I'd like to have  
19 all questions and answers regarding  
20 Mr. Garcia's driver's license marked  
21 confidential, pursuant to the  
22 confidentiality agreement.

23 MR. ZABELL: I object to the  
24 designation of confidential. You are  
25 familiar with the confidentiality

1 W. Garcia

2 agreement. You know what steps to take  
3 to test out your designation, but it was  
4 objected to.

5 MR. McNAMARA: Okay, thank you.

6 MR. ZABELL: The obligation is on  
7 you.

8 MR. McNAMARA: Thank you,  
9 Counselor.

10 MR. ZABELL: You're welcome.

11 Q When you renewed your license  
12 in 2007, you indicated to the State of Maryland  
13 that you still lived there; correct?

14 A Yes.

15 Q When you didn't live there;  
16 correct?

17 A Yes.

18 Q So you lied to them; correct?

19 A But it was necessary in order to  
20 be able to have an ID.

21 Q Right. It was necessary for you  
22 to lie in order to get something you wanted;  
23 correct?

24 A For the need.

25 Q Yes. So if you have a need for

1 W. Garcia

2 something, it's okay to lie for it; correct?

3 MR. McNAMARA: Objection.

4 A Yes, if it's a need as to have an  
5 ID, any ID. It's better -- my license -- I'm  
6 sorry that I am saying this, but it's better to  
7 have something legal than to have nothing at  
8 all.

9 Q So that's why you feel it was okay  
10 to lie about this?

11 A Yes, because I needed a license.

12 Q And you needed a license, because  
13 that was how you would make money; correct?

14 A I wasn't thinking about making  
15 money. I thought about my identification.

16 Q But this isn't you in the picture;  
17 is it? This is somebody else; isn't it?

18 MR. McNAMARA: Objection.

19 A That's me 100 percent.

20 Q Your ears aren't this big; are  
21 they?

22 MR. McNAMARA: Objection.

23 A (No verbal response.)

24 Q Are they?

25 A How do you see them? I'm asking:

1 W. Garcia

2 How do you see them?

3 Q I'm not under oath. You have to  
4 answer the questions.

5 That's not you; is it?

6 MR. McNAMARA: Objection.

7 A Of course, it is me. It is I.

8 MR. ZABELL: Let the record  
9 reflect that Lauren entered and  
10 interrupted the questioning.

11 (Whereupon, Ms. Goldberg entered  
12 the conference room.)

13 Q That's somebody else; isn't it?

14 A No, sir.

15 Q Have you had any plastic surgery  
16 done?

17 A No, never. That is me.

18 Q Have you lost any weight since  
19 taking this picture?

20 A I was thinner. It's possible.

21 Q You're saying you were thinner in  
22 this picture?

23 A If that is how you see it.

24 Q I'm asking you.

25 A Well, for sure. Yeah, maybe, yes.



1 W. Garcia

2 That's what it looks like.

3 Q I'm not saying what it looks like.

4 You knew how much you weighed when  
5 you took this picture; didn't you?

6 A And if I knew, I don't remember.

7 Q Who lives at 12812 Claxton Drive?

8 A A friend of mine.

9 Q So you had the license sent to  
10 your friend's house?

11 A No. Because they gave it to me at  
12 Motor Vehicles that same day.

13 Q You used your friend's address?

14 A Yes.

15 Q What is your friend's name?

16 A Marvin.

17 Q Marvin what?

18 A Rodriguez.

19 Q So Marvin helped you commit this  
20 fraud; correct?

21 MR. McNAMARA: Objection.

22 A No.

23 Q Did you tell Marvin that you were  
24 using his address?

25 A Yes.

1 W. Garcia

2 Q Did he charge you to let you use  
3 his address?

4 A No.

5 Q You just figured you could use his  
6 address, because that would help you get what  
7 you wanted; correct?

8 MS. GOLDBERG: Objection.

9 A I'm sorry, again?

10 Q Answer the question.

11 A If you can repeat it, please?

12 Q Were you not listening to the  
13 question I asked you?

14 MR. McNAMARA: Objection.

15 A It would be great to have the  
16 question heard back.

17 MS. GOLDBERG: He said he doesn't --

18 MR. ZABELL: Lauren, remain  
19 silent. You have an attorney here who is  
20 defending this deposition. If you do not  
21 have the ability to behave at this  
22 deposition, I'm going to ask you to step  
23 out.

24 Do you understand?

25 MS. GOLDBERG: I'm --

1 W. Garcia

2 MR. ZABELL: Do you understand?

3 MS. GOLDBERG: I'm simply

4 saying --

5 MR. ZABELL: Simply nothing.

6 There is an attorney defending  
7 this deposition. Remain silent while the  
8 individual answers the question. If  
9 you're incapable of doing that, I'm going  
10 to ask you to leave.

11 MS. GOLDBERG: Mr. Zabell, I would  
12 appreciate it if you could keep your tone  
13 to a civil tone.

14 MR. ZABELL: And I would  
15 appreciate it if you would sit there and  
16 remain silent while Mr. Patrick McNamara  
17 is defending this deposition.

18 Q Answer the question.

19 A I am not sure of what I'm to say.

20 You have to do the question again.

21 Q How about you say the truth?

22 MR. McNAMARA: Objection.

23 A I am saying the truth.

24 Q Do you remember the question?

25 A No, I don't remember.

1 W. Garcia

2 Q How would you characterize your  
3 memory?

4 A I don't know.

5 Q Is it good, bad, medium?

6 A Good, I think.

7 Q You think?

8 Do you remember how much you  
9 weighed when you took this picture?

10 A No.

11 MR. ZABELL: Let the record  
12 reflect that I was holding up Exhibit 11.

13 Q How much do you weigh now?

14 A I am 175.

15 Q Were you heavier or lighter when  
16 you took the picture in Exhibit 11?

17 A Less heavy.

18 Q Less heavy; did you say?

19 A Yes.

20 Q So you were less heavy when you  
21 lied to the State of Maryland in order to get  
22 your license; correct?

23 MS. GOLDBERG: Objection.

24 A Yes.

25 Q You were less heavy when you

1 W. Garcia

2 committed fraud against the State of Maryland?

3 MR. McNAMARA: Objection.

4 MS. GOLDBERG: Objection.

5 A Yes.

6 Q But you committed fraud so you  
7 could get your driver's license; correct?

8 MR. McNAMARA: Objection.

9 A If that is fraud, but for me, it's  
10 not fraud.

11 Q It's not fraud because you needed  
12 your driver's license; correct?

13 A Yes.

14 Q So it's okay to lie when you're  
15 lying to get something that you want or need;  
16 correct?

17 MR. McNAMARA: Objection.

18 MS. GOLDBERG: Objection.

19 A If that is to lie, the only time  
20 that I have lied in the United States is for my  
21 license.

22 Q You never lied anywhere else?

23 A I'm talking about law. I'm  
24 speaking about law of the United States.

25 MR. ZABELL: At this point, I find

1  
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25

W. Garcia

it necessary to lecture both Plaintiffs' Counsel. One of you and only one of you will be making objections here today.

Am I clear? You may have a few moments to confer to determine which one it's going to be, but if both of you feel compelled to object, one of you is going to be asked to leave, or you simply write your objections down and pass it to whoever you will determine is going to make the objections.

Am I clear?

MR. McNAMARA: You're clear.

At this time, I think it would be appropriate for us to take a quick break.

MR. ZABELL: Are you asking for a break?

MR. McNAMARA: I'm telling the court reporter.

MR. ZABELL: Well, we ask at my depositions, and if you're asking for a break, I will grant you that break, but you need to tell me that you are asking for that break.

1 W. Garcia

2 MR. McNAMARA: I'm asking,  
3 Counselor, and thank you. I appreciate  
4 it.

5 MR. ZABELL: You're very welcome.

6 (Whereupon, a recess was taken at  
7 this time from 2:00 p.m. until 2:15 p.m.)

8 Q Mr. Garcia, you had an opportunity  
9 to speak with your attorneys?


10 A Yes.

11 Q And you did, in fact, speak with  
12 them; correct?

13 A Yes.

14 Q Were you shown any documents?

15 A No.

16 Q Do you know what the number  
17  is; do you know what that is?

18 MS. GOLDBERG: I'm going to object  
19 to that question, and I believe, again,  
20 Saul -- I'm sorry, Mr. Zabell -- that  
21 you, again, are trying to ask about  
22 Social Security numbers.

23 If I am wrong, you can please tell  
24 me so, and that has already been objected  
25 to as per the court order.

1 W. Garcia

2 Q Do you know what that number is?

3 MS. GOLDBERG: Again, I'm --

4 Q Yes or no?

5 MS. GOLDBERG: -- I'm directing my  
6 client not to answer the question.

7 MR. ZABELL: Then, we will be  
8 calling Judge Tomlinson.

9 Ask him to step out while we do  
10 this.

11 MS. GOLDBERG: Ms. Interpreter,  
12 please tell him that we are going to call  
13 the Judge, and while we call the Judge,  
14 he needs to step out of the room.

15 (Whereupon, the witness left the  
16 conference room.)

17 (Whereupon, a call was made to  
18 Judge Tomlinson, and the following  
19 colloquy was had:)

20 (Whereupon, a recorded voice  
21 mailbox was heard, and the following  
22 message was left by Mr. Zabell:)

23 MR. ZABELL: Hi. Good afternoon,  
24 Judge Tomlinson, Saul Zabell. I am at a  
25 deposition. Ms. Goldberg just appeared



1 W. Garcia

2 at this deposition replacing Patrick  
3 McNamara who was defending.

4 As soon as Ms. Goldberg appeared,  
5 she has instructed the deponent not to  
6 answer certain questions regarding the  
7 Social Security number that he provided  
8 to one of the defendants. He provided it  
9 to -- we believe, a different one to  
10 another one of the defendants.

11 We were questioning him if he knew  
12 what the Social Security number was, and  
13 then, we read the number to him and asked  
14 him to confirm that.

15 Ms. Goldberg has advised him not  
16 to answer. This is a discovery dispute.  
17 We are in the middle of the deposition.

18 I can be reached at (631) 589-7242.

19 We will continue with this  
20 deposition in the meantime, knowing quite  
21 well that Your Honor's docket is packed  
22 pretty tightly today which might mean  
23 that we have to bring this individual  
24 back for another day of testimony  
25 regarding this subject.

1 W. Garcia

2 Again, I can be reached at  
3 (631) 589-7242. Thank you.

4 MS. GOLDBERG: Your Honor, I want  
5 to indicate that I do believe that these  
6 questions violate the protective order  
7 that Your Honor has already issued in  
8 this case.

9 MR. ZABELL: Thank you, Your Honor.

10 MS. GOLDBERG: Thank you, thank  
11 you.

12 (Whereupon, the telephone  
13 conversation was concluded.)

14 MS. GOLDBERG: Okay, he should be  
15 brought back.

16 MR. ZABELL: When I'm ready.

17 MS. GOLDBERG: Okay.

18 MR. ZABELL: Are you all right?  
19 You look like you have a little rash.

20 MS. GOLDBERG: You look like  
21 you're so uncomfortable. You look like  
22 you are so uncomfortable.

23 Are we continuing, or what are we  
24 doing right now? Are we taking a break?

25 MR. ZABELL: You're going to sit

1 W. Garcia

2 down, and keep your mouth shut while we  
3 depose your client.

4 MS. GOLDBERG: That's nice.  
5 That's a nice way to talk as a  
6 professional.

7 (Whereupon, a recess was taken at  
8 this time from 1:20 p.m. until 1:25 p.m.)

9 (Whereupon, the witness entered  
10 the conference room.)

11 (Whereupon, Mr. McNamara was no  
12 longer present at the deposition.)

13 Q You just took a break and spoke to  
14 your attorney; correct?

15 A Yes.

16 Q Did she show you any documents?

17 A No.

18 Q What were some of the jobs that  
19 you worked at for Suffolk Paving in 2005?

20 A Which were the jobs?

21 Q Yes.

22 A I don't remember.

23 Q Well, did you write them down  
24 anywhere?

25 A I would write them down, and then,

1 W. Garcia

2 I would leave them on the desk of Tom, but I  
3 don't remember.

4 Q You don't remember any of the jobs  
5 you worked at?

6 A (Nodding.)

7 Q Answer the question verbally.

8 A No.

9 Q Do you remember any of the days  
10 that you worked in 2005 for Suffolk Paving?

11 MS. GOLDBERG: Objection to form.

12 Q You may disregard the attorney's  
13 speaking objections and answer the question.

14 A I don't remember.

15 Q Well, is there anything you can  
16 look at that will help you remember?

17 A If I pass by a street, I know that  
18 I did it, but I don't remember the date.

19 Q As you sit here right now, you  
20 have no idea what streets you worked on, what  
21 jobs you worked on, and what days you worked on  
22 them; is that correct?

23 MS. GOLDBERG: Objection to form.

24 Q You may disregard the objections  
25 and answer the question immediately.

1 W. Garcia

2 A I don't remember.

3 Q How much did you make an hour  
4 in 2006 working for Suffolk Paving?

5 A It -- \$23.75, and at the end, he  
6 paid me \$40.99.

7 Q How much did you make in 2006  
8 working for Suffolk Paving?

9 A Total, per week?

10 Q Per hour.

11 A \$23, \$75.

12 Q Are you sure?

13 A Yes. At the end, like in December  
14 or January, I received a check, two checks that  
15 he paid me \$40.99.

16 Q So he paid you \$40.99 for some  
17 hours and \$23.75 for some hours; is that your  
18 testimony?

19 A (No verbal response.)

20 Q Yes or no?

21 A (No verbal response.)

22 Q Yes or no?

23 MS. GOLDBERG: Objection to form.

24 Go ahead, you can answer.

25 Q Yes or no?

1 W. Garcia

2 A I say that that's when  
3 Suffolk Asphalt started paying me at \$40.99.

4 Q Do you have any ability to answer  
5 a question yes or no?

6 MS. GOLDBERG: Objection.

7 A I can't because in that year, he  
8 paid me -- in 2006, \$23.75, and at the end, he  
9 paid me \$40.99.

10 Q Do you have the ability to say yes  
11 to a question; yes or no?

12 MS. GOLDBERG: Objection.

13 A Yes. If I can simply say yes?  
14 Yes.

15 Q Do you have the ability to say no  
16 to a question; yes or no?

17 A If I only have to say no, I say  
18 no.

19 Q In 2007, you worked for Pave-Co;  
20 correct?

21 A Yes.

22 Q How much did you get paid an hour  
23 for Pave-Co?

24 A Twenty -- twenty-seven.

25 Q Twenty, and then twenty-seven?

1 W. Garcia

2 A No, twenty-seven.

3 Q In 2008, you applied to work at  
4 Suffolk Asphalt again; did you not?

5 A Yes.

6 Q How much did you earn per hour  
7 in 2008?

8 A \$40.99 until June, because as of  
9 June, he paid me more.

10 Q How much more?

11 A \$42 -- \$44, he gave me \$44.

12 Q Who is the "he" that you are  
13 talking about?

14 A What I referred?

15 Q Yes. Who was the "he" that you  
16 were referring to?

17 A Oh, Suffolk Asphalt.

18 Q Do you call Suffolk Asphalt a "he"?

19 MS. GOLDBERG: Objection.

20 You can go ahead and answer.

21 A It's a company. Well, because the  
22 owner was Louie Vecchia.

23 Q Who did you work for in 2009?

24 A Suffolk Asphalt.

25 Q How much did you make an hour

1 W. Garcia

2 in 2009?

3 A Forty-four, and in June, it went  
4 up again.

5 Q It went up again to what?

6 A Forty-five.

7 Q Are you sure?

8 A Sure.

9 Q And you got paid \$44 and \$45 an  
10 hour for the hours that you worked in 2009 from  
11 Suffolk Asphalt?

12 MS. GOLDBERG: Objection to form.

13 You can go ahead and answer.

14 A The same. He paid me what he  
15 felt, but he did pay me.

16 Q But you got paid \$44 or \$45 an  
17 hour; correct?

18 A Yes.

19 Q Now, did you ever do any side work  
20 in 2009?

21 MS. GOLDBERG: Objection to form.

22 Go ahead and answer.

23 A No, no.

24 Q Never did a driveway here and  
25 there?



1 W. Garcia

2 A For Suffolk?

3 Q For you or somebody else?

4 A No.

5 Q Tell the truth.

6 A No.

7 Q So if your coworkers said you did,  
8 they'd be lying; correct?

9 MS. GOLDBERG: Objection to form.

10 Q Go ahead and answer.

11 A If my coworkers say if I am lying?  
12 I never did a driveway.

13 Q So they're lying?

14 MS. GOLDBERG: Objection to form.  
15 Go ahead and answer.

16 A Well, I don't know, but I didn't  
17 do a driveway.

18 Q You never did a driveway in 2009?

19 A For myself? Through me?

20 Q Yes.

21 A No.

22 Q What about one of your coworkers,  
23 privately?

24 A Well, maybe they did, yes, but I  
25 didn't.

1 W. Garcia

2 Q Did they ever pay you to help  
3 them?

4 MS. GOLDBERG: Objection to form.  
5 Go ahead and answer.

6 A No.

7 Q A little bit?

8 A No.

9 Q Go to church?

10 A Thank God, yes.

11 Q How often?

12 A Every day.

13 Q You go to church every day?

14 A Yes, sir.

15 Q What church?

16 A Christian.

17 Q Where?

18 A In Brentwood.

19 Q What's the name of the church?

20 A Palabra Miel.

21 MR. ZABELL: What does that mean?  
22 Does that mean something?

23 THE INTERPRETER: It means, word,  
24 honey.

25 Q Who is the priest there?

1 W. Garcia

2 A He's not a priest. He's a pastor.

3 Q What's the pastor's name?

4 A Marco Lopez.

5 Q For how long has he been a Pastor  
6 there?

7 A Approximately, about fifteen  
8 years.

9 Q How long have you belonged to this  
10 church?

11 A Six years.

12 Q Every Sunday, have you gone to  
13 church?

14 A Yes.

15 Q Is Sunday the main day of worship  
16 at your church?

17 A Every day, but it is a very  
18 important day, the day Sunday.

19 Q From what time to what time do you  
20 go to church on Sunday?

21 A From 10:00 until 4:00 or 5:00.

22 Q Now, you also said you go to  
23 church on Saturdays; correct?

24 A Yes.

25 Q And you've done that for the last

1 W. Garcia

2 six years; right?

3 A Yes.

4 Q From what time to what time?

5 A From 7:00 to 10:30.

6 Q 7:00 in the morning or 7:00 in the  
7 evening?

8 A In the evening.

9 Q And every Saturday, you've gone to  
10 church from 7:00 at night until 10:30 at night;  
11 correct?

12 MS. GOLDBERG: Objection to form.

13 Go ahead, you can answer.

14 A No.

15 Q No? You're lying to me?

16 A Not every Saturday, but regularly,  
17 yes. If I have to miss -- well, I'll miss, but  
18 if I have the opportunity, I will go.

19 Q How often do you miss?

20 A Maybe one time a month.

21 Q Now, you said you go to the church  
22 every day during the week; correct?

23 A Yes, when I have enough time.

24 Q You've done that for the last six  
25 years; right?

1 W. Garcia

2 A Yes.

3 Q What time do you go during the  
4 week?

5 A To church?

6 Q Yes.

7 A At 7:00, 7:30.

8 Q You go from 7:00 to 7:30 every  
9 night?

10 MS. GOLDBERG: Objection to form.  
11 Go ahead, You can answer.

12 Q Correct?

13 A Yes.

14 Q And for how long do you stay?

15 A Until 10:00, 10:30, 11:00.

16 Q You've done that the last six  
17 years; correct?

18 MS. GOLDBERG: Objection to form.  
19 Go ahead, you can answer.

20 Q Correct?

21 A Yes.

22 Q I can't always hear you over the  
23 babbling of the person next to you; okay?

24 A Okay.

25 MS. GOLDBERG: Objection.

1 W. Garcia

2 A (No verbal response.)

3 Q Okay?

4 A Okay.

5 Q Thank you.

6 MS. GOLDBERG: Just wait until I  
7 finish my objection before you begin --  
8 before you answer.

9 Q You may disregard any directions  
10 that you are being told now.

11 In 2009, can you remember any of  
12 the work projects that you worked on for  
13 Suffolk Paving?

14 A I can remember, but the dates, no.

15 Q Tell me any of the projects you  
16 worked on in 2009 for Suffolk Paving.

17 A Waverly Avenue.

18 Q Continue.

19 A A job in Massapequa.

20 Q Continue.

21 A And many streets in Brookhaven.

22 Q What are the names of those  
23 streets?

24 A I don't remember.

25 Q When did you work in Brookhaven?

1 W. Garcia

2 What days?

3 MS. GOLDBERG: Objection to form.

4 Go ahead, you can answer.

5 A I only remember that it was

6 in 2009.

7 Q You have no idea what days and

8 what hours you worked in 2009 in Brookhaven?

9 MS. GOLDBERG: Objection to form.

10 Q You may answer.

11 A We did many streets that I don't

12 remember.

13 Q Do you remember any of them and

14 the days and the hours that you worked on them?

15 A (No verbal response.)

16 Q Si or no?

17 A No, no. I don't remember.

18 Q Do you remember any of the days or

19 the hours that you worked in Massapequa?

20 MS. GOLDBERG: Objection to form.

21 Go ahead, you can answer.

22 Q Go ahead, you can disregard those

23 statements. Pay no attention to them.

24 A That I always worked in Massapequa

25 more than ten hours, yes, but the dates, no.

1 W. Garcia

2 Q More than ten hours total you  
3 worked in Massapequa; correct?

4 MS. GOLDBERG: Objection to form.  
5 Go ahead, you can answer.

6 A Per day.

7 Q Do you remember any of the streets  
8 you worked on in Massapequa?

9 A No. Only I remember that it was a  
10 private place, it was an area.

11 Q Oh, that's all you remember?

12 A That's what I remember. If I pass  
13 and I see, I know that I did that job, but the  
14 name of the streets, I don't remember.

15 Q But as you sit here right now and  
16 you access that memory that you characterized as  
17 good, you can't remember any of the specific  
18 streets, projects, or locations you worked on;  
19 correct?

20 MS. GOLDBERG: Objection to form.  
21 Go ahead, you can answer.

22 A No, I don't remember.

23 Q I didn't think so.

24 When did you work on

25 Waverly Avenue in 2007?



1 W. Garcia

2 A I told you that I remember the  
3 place, but the date I don't remember.

4 Q Do you remember any of the hours  
5 that you worked at Waverly Avenue?

6 MS. GOLDBERG: Objection to form.  
7 You can go ahead and answer it.

8 A Yes, I remember.

9 Q On what date, and how many hours  
10 did you work?

11 MS. GOLDBERG: Objection to form.  
12 You can go ahead and answer it.

13 A The hours that I worked that week,  
14 he had to pay me eleven hours of overtime, and  
15 he only paid me nine.

16 Q Is that why you're suing him, over  
17 two hours of overtime?

18 MS. GOLDBERG: Objection to form.  
19 You can go ahead and answer.

20 Q Right? Is that why we're here?

21 A (No verbal response.)

22 Q Answer yes or no.

23 Is that why we're here; yes or no?

24 A (No verbal response.)

25 Q Yes or no?

1 W. Garcia

2 A No. Because that one -- that job  
3 in Waverly Avenue, that's where Louie's cousin  
4 was, and they said if they didn't pay how it was  
5 supposed to be, that he had to tell him, and he  
6 paid us. He ended up owing me two hours. It  
7 was the only time he paid me nine hours.

8 Q So it was the only time he owed  
9 you two hours? Isn't that what you just  
10 testified to?

11 MS. GOLDBERG: Objection to form.  
12 Go ahead, you can answer.

13 Q Si or no?

14 A Of that day, yes.

15 Q Okay, yes.

16 Now, I'm going to be asking you  
17 questions. You understand that; right?

18 A Yes.

19 Q I'm only interested in having you  
20 answer the questions I ask you.

21 Do you understand that?

22 A Yes.

23 Q I want you to try very hard to  
24 only answer the questions I ask you; otherwise,  
25 we're going to be here for a very long time, and

1 W. Garcia

2 considering the amount of breaks that your  
3 attorneys take, it's more than likely that  
4 you're going to be missing more days from work.

5 Do you understand that?

6 A Yes.

7 Q I'm trying very hard not to let  
8 that happen out of respect for your time.

9 Do you understand that?

10 A Yes.

11 Q So try very hard just to answer  
12 the questions I ask you; okay?

13 A Okay.

14 Q So in 2009, you have absolutely no  
15 memory of the specific jobs that you worked on  
16 and the hours that you worked on them?

17 MS. GOLDBERG: Objection to form.  
18 You can go ahead and answer.

19 Q You may answer.

20 A I only remember that I told you,  
21 and I don't remember.

22 Q So you only remember that you were  
23 owed the two hours of overtime, like you told  
24 me; correct?

25 MS. GOLDBERG: Objection to form.

1 W. Garcia

2 You can go ahead and answer.

3 Q Correct?

4 A (No verbal response.)

5 Q Correct?

6 A In Waverly Avenue, yes.

7 Q Okay. Two hours, and you were  
8 paid nine hours of overtime that week; correct?

9 A Yes.

10 Q Those nine hours were on your  
11 paycheck; correct?

12 A Yes.

13 Q On your paycheck, it would show  
14 that you would get paid regular hours and  
15 overtime hours; correct?

16 A Yes.

17 Q Those were the checks that you got  
18 paid every week; correct?

19 MS. GOLDBERG: Objection to form.

20 You can go ahead and answer.

21 Q Correct?

22 A Yes, those were the checks.

23 Q Now in 2008, you worked for  
24 Suffolk Paving, as well; correct?

25 A Suffolk Asphalt.

1 W. Garcia

2 Q So you're saying you didn't work  
3 for Suffolk Paving in 2008; correct?

4 A No.

5 Q No, it's correct, or no, it's not  
6 correct?

7 A No, I did not work for  
8 Suffolk Paving. Suffolk Asphalt.

9 Q And you only worked for  
10 Suffolk Asphalt in 2008; correct?

11 A April -- from April 2008 to 2009,  
12 I worked at Suffolk Asphalt.

13 Q What were some of the projects  
14 that you worked in Suffolk Asphalt from April  
15 of 2008 to December of 2008?

16 A The only job that I remember in  
17 Ronkonkoma.

18 Q Great.

19 From what time to what time did  
20 you work on the job in Ronkonkoma?

21 A From 6:30 or 7:00, that we would  
22 arrive to the yard, to 5:00. I don't know 5:00,  
23 6:00, 7:00 at night at the job.

24 Q Did you eat breakfast today?

25 A Yes.

1 W. Garcia

2 Q What did you eat?

3 A Sandwich.

4 Q Egg sandwich?

5 A Yes.

6 Q You don't eat egg sandwiches with  
7 mayonnaise; do you?

8 A No, I don't eat egg sandwich with  
9 mayonnaise.

10 Q Good. With ketchup?

11 A Ketchup, yes.

12 Q Fried or scrambled?

13 A Scrambled.

14 Q Bacon, sausage?

15 A Yes.

16 Q Both?

17 A Yes.

18 Q Cheese?

19 A American cheese.

20 Q Sounds very good. Very fattening,  
21 but good.

22 You eat that every morning?

23 A Yes.

24 Q With coffee?

25 A Sometimes I drink coffee.

1 W. Garcia

2 Q If you don't drink coffee, what do  
3 you drink?

4 A Apple juice or orange.

5 Q You didn't just say "Yoo-Hoo"?

6 A Juice.

7 Q Jugo, not Yoo-Hoo. Do you know  
8 what Yoo-Hoo is?

9 A A name of a person.

10 Q No. It's the name of a chocolate  
11 drink.

12 A No.

13 Q Yoo-Hoo.

14 For how many years have you been  
15 eating egg sandwiches?

16 A Since I started working at  
17 Asphalt.

18 Q So all the way back to the year  
19 2000; right?

20 A Yes.

21 Q And you get those egg sandwiches  
22 at a deli; correct?

23 MS. GOLDBERG: Objection to form.

24 You can go ahead and answer it.

25 A Yes.

1 W. Garcia

2 Q Okay. How would you get to  
3 Suffolk Asphalt in the morning?

4 A In my car.

5 Q You would drive there every  
6 morning; right?

7 A Drove, yes.

8 Q Did you ever drive anybody to work  
9 with you?

10 A Yes, sometimes.

11 Q Who would you drive to work with  
12 you?

13 A The coworkers from work.

14 Q Who?

15 A Kevin, Louis. The ones that  
16 didn't have a car.

17 Q Just Kevin and Louis?

18 A No. Sometimes other ones would  
19 ask me for a ride.

20 MR. ZABELL: Off the record.

21 (Whereupon, a discussion was held  
22 off the record.)

23 Q Who are the other ones that would  
24 ask you for a ride?

25 A Edwin and Jose.



1 W. Garcia

2 Q Jose?

3 A Yes.

4 Q What's Kevin's last name?

5 A Galeano.

6 Q What's Luis' last name?

7 A Martinez.

8 Q What's Edwin's last name?

9 A Rivera.

10 Q What's Jose's last name?

11 A Jose Vega Castillo.

12 Q Now, were you ever told that you

13 could drive your car directly to the worksite?

14 MS. GOLDBERG: Objection to form.

15 You can go ahead and answer.

16 A Yes, a few times.

17 Q So there were times where you used

18 to drive your car directly to the job site;

19 right?

20 A Yes.

21 Q And you used to drive workers

22 directly there with you; correct?

23 MS. GOLDBERG: Objection to form.

24 Go ahead and answer it.

25 A Not every time, because sometimes

1 W. Garcia

2 there were different groups, and not every time  
3 I would give rides to them.

4 Q You would drive to the shop of  
5 every morning just to get a map of where you  
6 needed to go for the day; correct?

7 MS. GOLDBERG: Objection to form.  
8 Go ahead, you can answer.

9 A Not only to get a map. When I  
10 would get to the yard, I would leave my car  
11 there.

12 Q And you would take a company  
13 vehicle to the worksite?

14 A Yes.

15 Q What company vehicle?

16 A The box truck and the utility  
17 truck.

18 Q Do you know if the box truck and  
19 the utility truck had GPS units in them?

20 A The utility truck, I thought it  
21 had. I wasn't sure, but the box truck didn't  
22 have or I don't know.

23 Q How do you know that the box truck  
24 didn't have?

25 A I say because it was a little old,

1 W. Garcia

2 and the equipment was always there and a big  
3 roller.

4 Q You would just go to the shop to  
5 pick up the truck?

6 MS. GOLDBERG: Objection to form.

7 Go ahead and answer it.

8 A I would go, yes, and from there, I  
9 would go to the job.

10 Q You were at the shop for about  
11 five minutes every morning?

12 MS. GOLDBERG: Objection to form.

13 You can go ahead and answer.

14 A Between five and fifteen minutes.

15 Q The people who would come with  
16 you; Kevin, Luis, Edwin, and Jose, they were  
17 just along for the ride?

18 MS. GOLDBERG: Objection to form.

19 Go ahead, you can answer.

20 A No, because they had to work.

21 Q But they could have met you at the  
22 job site; correct?

23 MS. GOLDBERG: Objection to form.

24 Go ahead, you can answer.

25 Q Right?

1 W. Garcia

2 A (No verbal response.)

3 Q Right?

4 A Yes.

5 Q Thank you.

6 Are you familiar with your  
7 collective bargaining agreement?

8 A That if I am -- can you repeat  
9 that again?

10 Q Are you familiar with your  
11 collective bargaining agreement?

12 A Collective of what?

13 Q Do you know what governs the terms  
14 and conditions of your employment?

15 MS. GOLDBERG: Objection to form.

16 Q You can answer. You can disregard  
17 her objections.

18 A But I don't understand the  
19 question.

20 Q Do you know what the terms and  
21 conditions of your employment were?

22 A No.

23 Q Oh, okay.

24 Are you familiar with your union?

25 A I am a member of the union.

1 W. Garcia

2 Q Do you know what the union rules  
3 are?

4 A Not all.

5 Q Do you know what any of them are?

6 A Yes, some.

7 Q What are some of the rules?

8 A You have to pay double, double  
9 time-and-a-half.

10 Q Double, double time-and-a-half?

11 A Double, only double.

12 Q Are you familiar with any other  
13 rules?

14 A That if it rains, it has to pay;  
15 if you're made to go to the job, it has to pay,  
16 and if it's cancelled, it has to pay.

17 Q So you're saying that your  
18 collective bargaining agreement says that you  
19 have to get paid when you don't work?

20 MS. GOLDBERG: Objection to the  
21 form.

22 You can go ahead and answer it.

23 THE WITNESS: Tell him that I'm so  
24 sorry, but I don't understand his  
25 question.

1 W. Garcia

2 Q Is it your testimony that your  
3 contract, your union, says that you have to get  
4 paid when you don't work?

5 MS. GOLDBERG: Objection to form.  
6 You can go ahead and answer it.

7 A Yes.

8 Q Are you sure of that?

9 A Last year, I found out.

10 Q How many times have you complained  
11 to your union about Suffolk Asphalt?

12 A I never complained, because I  
13 thought that they could be united with  
14 Suffolk Asphalt.

15 Q So you never complained to the  
16 union?

17 A No.

18 Q Did you ever have anything to  
19 complain about?

20 A Yes.

21 MS. GOLDBERG: Objection to form.

22 Q What?

23 A The hours that I wasn't paid.

24 Q The two hours that you had  
25 testified about before?

1 W. Garcia

2 MS. GOLDBERG: Objection to form.

3 A The two hours that I testified to  
4 were only from Waverly Avenue.

5 Q Right. So they are the only two  
6 hours you had a right to complain about, but you  
7 never did; correct?

8 MS. GOLDBERG: Objection to form.

9 You can answer.

10 A Because I felt very, very happy to  
11 see nine hours of overtime, because we were  
12 always paid one or two hours.

13 Q Right, right.

14 Did you ever take lunch breaks?

15 A Not all the time.

16 Q Every day, would somebody go run  
17 to the deli to get sandwiches for you?

18 A Yes, sometimes.

19 Q Every day on the job site,  
20 somebody would go to a deli; correct?

21 MS. GOLDBERG: Objection to form.

22 You can answer.

23 A Yes.

24 Q What would you eat for lunch?

25 A A sandwich from the deli.

1 W. Garcia

2 Q What kind of sandwich?

3 A Chicken cutlet.

4 Q On a role?

5 A Yes.

6 Q With lettuce, tomato, onion,

7 pickles?

8 A Yes.

9 Q All of those things?

10 A Yes.

11 Q That didn't give you heartburn?

12 A I would get gastritis when  
13 lunchtime would pass, and they didn't give us  
14 the time to eat.

15 Q So when you ate that sandwich  
16 every day, would you have something to drink  
17 with it?

18 A Yes.

19 Q What did you drink?

20 A A soda.

21 Q Diet or regular?

22 A Regular.

23 Q What kind of soda would you like?

24 A Coca-Cola.

25 Q Not Pepsi?



1 W. Garcia

2 A No.

3 Q Did you eat chips?

4 A Yes.

5 Q What kind of chips?

6 A Potato, potato chips.

7 Q With ruffles?

8 A Yes.

9 Q You like the ruffled potato chips?

10 A Yes.

11 Q Would you get the sour cream and  
12 onion ones or just the plain ones?

13 A Regular.

14 Q And that's what you would eat?

15 You would eat a sandwich, chips and a soda every  
16 day; right?

17 A No, not every day.

18 Q You testified before that that's  
19 the sandwich that you would eat every day;  
20 right?

21 MS. GOLDBERG: Objection.

22 Q Were you lying to me?

23 A No. Anyone would assure that they  
24 were eating the same thing every day.

25 Q Okay. Did you ever back your

1 W. Garcia

2 lunch hour out of the time that you think that  
3 you worked?

4 MS. GOLDBERG: Objection to form.  
5 You can go ahead and answer.

6 A No.

7 Q Did you think you had to be paid  
8 for your lunch hour?

9 A They didn't have to pay, but when  
10 I'm a member of the union, if the lunch hour  
11 passes, they have to pay the lunch.

12 Q But you ate lunch every day. You  
13 took lunch every day; correct?

14 MS. GOLDBERG: Objection.

15 Q You just said you did.

16 MS. GOLDBERG: Objection to form.  
17 You can answer.

18 A I would eat my lunch. My job was  
19 the roller, and I would lower the roller when  
20 they gave me my food with the roller right  
21 there, and I would eat right there, and I would  
22 continue working.

23 Q Do you like soccer, or do you like  
24 baseball?

25 A Soccer.

1 W. Garcia

2 Q Did you ever play soccer on the  
3 job site?

4 A About two times, I think, when I  
5 played when we didn't have anything to do.

6 Q What jobs were you playing soccer  
7 on?

8 A No, I don't remember. The only  
9 time that we played soccer was that we had  
10 already arrived from the job. We were already  
11 in the yard, and we were waiting for somebody,  
12 and we just started playing there in the yard.

13 Q So you only played soccer in the  
14 yard? You never played soccer on the job site;  
15 correct?

16 A No.

17 Q Whose soccer ball was it?

18 A I don't know, truthfully. I just  
19 remember that the ball appeared one or two  
20 times, and no, we didn't play.

21 Q You didn't play or you did play?

22 A We played one or two times when  
23 there was nothing to do, and we were waiting for  
24 the trucks.

25 Q Did you ever play baseball?

1 W. Garcia

2 A No.

3 Q Did you ever pay catch?

4 A Oh, yes.

5 Q Couple of times; right?

6 A Yes.

7 Q On the job site; right?

8 A Yes.

9 Q When you played soccer, it was  
10 with an actual soccer ball and not just a ball  
11 of rags; correct?

12 A I --

13 Q Yes or no?

14 A Yes.

15 Q You didn't play soccer with a  
16 grapefruit; correct?

17 A (No verbal response.)

18 Q Correct?

19 A Yes.

20 MR. ZABELL: Let's take a lunch  
21 break now. It's 2:15. Why don't we get  
22 back together at 2:45.

23 (Whereupon, a luncheon recess was  
24 taken from 2:15 p.m. until 3:00 p.m.)

25 MR. ZABELL: Please read back the

1 W. Garcia

2 last question and answer for me.

3 (Whereupon, the requested portion  
4 of the record was read by the court  
5 reporter.)

6 Q What was your job title?

7 A In Suffolk Paving, it was roller,  
8 roller operator.

9 Q What did you operate?

10 A The roller and the paver.

11 Q The heavy machinery that compacts  
12 the paving?

13 A Yes.

14 Q For how many years did you operate  
15 that machinery?

16 A Approximately, about five years.

17 Q Who taught you how to use that  
18 machinery?

19 A I learned alone there using the  
20 machinery.

21 Q Where?

22 A Suffolk Paving.

23 Q Do you know who owns Suffolk  
24 Paving?

25 A Yes.

1 W. Garcia

2 Q Who owns Suffolk Paving?

3 A Louis Vecchia.

4 Q Are you finished answering?

5 A Helene Vecchia, Chris Vecchia.

6 Q How do you know Helene Vecchia  
7 owns Suffolk Paving?

8 A Because when we claimed by hour,  
9 and we had to do that, they always said that it  
10 was Louie, and if it wasn't Louie, it was  
11 Helene.

12 Q Who said Helene was an owner of  
13 the company?

14 A Nobody said that, but since she  
15 was the woman that had to deal with the hours,  
16 she was the owner.

17 Q So you think she was the owner  
18 because she had to deal with the hours?

19 A And the wife of the owner.

20 Q Is that the only reason why you  
21 think she was the owner?

22 A Yeah, she was a boss.

23 Q Did anybody else tell you that she  
24 was an owner; someone like (pointing)?

25 A No. Well, if she is the wife of

1 W. Garcia

2 the owner, then she has to be an owner too.

3 Q You think so?

4 A Yes.

5 Q Did you ever lie to get something  
6 that you wanted?

7 MS. GOLDBERG: Objection.

8 A In the case of my license, yes.

9 Q Anything else?

10 A No.

11 Q For example, some of your  
12 coworkers testified that they would lie to  
13 conquer a woman. Did you ever do that?

14 MS. GOLDBERG: Objection.

15 A (No verbal response.)

16 Q That's a yes. When you laugh like  
17 that, that's a yes. You know that; right?

18 A Possibly, yes.

19 Q Did you ever tell a little white  
20 lie to get something that you wanted?

21 MS. GOLDBERG: Objection.

22 A Yes.

23 Q It was okay because you got what  
24 you wanted; right?

25 MS. GOLDBERG: Objection to form.

1 W. Garcia

2 A Yes.

3 Q [REDACTED]

4 A [REDACTED]

5 Q [REDACTED]

6 A [REDACTED]

7 Q [REDACTED]

8 [REDACTED]

9 A [REDACTED]

10 Q [REDACTED]

11 A [REDACTED]

12 [REDACTED]

13 Q [REDACTED]

14 A [REDACTED]

15 Q [REDACTED]

16 [REDACTED]

17 A [REDACTED].

18 Q [REDACTED]

19 A [REDACTED]

20 Q [REDACTED]

21 [REDACTED]

22 A No, I go to -- the last time, the  
23 only time that I've gone, I've gone to  
24 Washington.

25 Q The State of Washington?



1 W. Garcia

2 A The DC.

3 Q So you we want to Washington, DC,  
4 the District of Columbia?

5 A Yes.

6 Q When did you go to Washington, DC?

7 A About two years ago.

8 Q For how long did you go?

9 A One week.

10 Q Do you remember when?

11 A I only remember that it was in  
12 November.

13 Q Did you take the kids out of  
14 school?

15 A Yes, about three days.

16 Q Why did you do that?

17 A Three days because we needed  
18 vacation.

19 Q Where did you stay when you went  
20 to Washington, DC?

21 A One night, I stayed at  
22 Claxton Drive, the address that is on my  
23 license, and another two nights, I stayed in a  
24 hotel.

25 Q The Claxton Drive address is in

1 W. Garcia

2 Maryland, not Washington.

3 A It's half-an-hour to forty-five  
4 minutes to Washington, DC.

5 Q Right. But you need to be honest  
6 with me when you answer these questions.

7 You didn't say you were in  
8 Maryland. You said you were in Washington.  
9 Somebody could consider that to be a lie.

10 MS. GOLDBERG: Objection to form.

11 Although, I'm not sure there was a  
12 question.

13 A When I stayed in the address at  
14 Claxton, it was when we were going from here to  
15 there (indicating), and it's on the way getting  
16 to Washington.

17 Q Don't lie to me.

18 A I'm not lying.

19 Q You promise not to lie?

20 A I promise.

21 Q Good.

22 Getting back to your egg  
23 sandwiches in the morning, you would stop at a  
24 deli before arriving at the worksite; correct?

25 A Yes.

1 W. Garcia

2 Q You'd go with some of your  
3 colleagues; right?

4 A Yes.

5 Q And they would eat egg sandwiches  
6 too?

7 A Yes.

8 Q You would take the box trucks to  
9 do that; correct?

10 MS. GOLDBERG: Objection to form.

11 A Yes.

12 Q How long would it take to order  
13 the egg sandwiches?

14 A Ten minutes.

15 Q How long would it take to eat the  
16 sandwiches?

17 A Another ten minutes.

18 Q So it would be about twenty  
19 minutes; correct?

20 A Yes.

21 Q Do you want Suffolk Paving to pay  
22 you for those twenty minutes to eat that  
23 sandwich; yes or no?

24 MS. GOLDBERG: Objection to form.

25 Q Yes or no?

1 W. Garcia

2 A Since the moment that they made us  
3 arrive there at 6:30, at that time, we began to  
4 work.

5 Q So you want them to pay you for  
6 the twenty minutes it took you to eat breakfast;  
7 correct?

8 MS. GOLDBERG: Objection to form.

9 Q Yes or no?

10 A I --

11 Q Not an explanation.

12 Yes or no.

13 A Yes, I want them to pay me because  
14 I drove and I ate. When we arrived to the job  
15 site, we would just arrive to take out the  
16 equipment and start to work.

17 Q Don't you want to get paid from  
18 when you started to do work, you want to get  
19 paid for your breakfast too; right?

20 MS. GOLDBERG: Objection to form.

21 A We didn't have time to eat.

22 Q You just said you took twenty  
23 minutes to eat; right?

24 MS. GOLDBERG: Objection to form.

25 Q Yes or no?

1 W. Garcia

2 A The ones that were coming with me,  
3 but if I'm driving, I didn't have time to eat.

4 Q Why didn't you just drive right to  
5 the job site?

6 MS. GOLDBERG: Objection to form.

7 Q Go ahead and answer the question.

8 A Because -- I'm sorry, again,  
9 what's the question?

10 Q Why didn't you eat before you got  
11 to work like a normal person?

12 MS. GOLDBERG: Objection to form.

13 A Because when we arrived to the  
14 job, sometimes Mr. Louie would ask us, where are  
15 you? He was already at the job site, and he  
16 wanted us to hurry.

17 Q So why didn't you just go right to  
18 the job site in the morning?

19 MS. GOLDBERG: Objection to form.

20 A Because, then, we wouldn't eat.

21 Q So it was important for you to eat  
22 after going to the shop; right?

23 MS. GOLDBERG: Objection to form.

24 A (No verbal response.)

25 Q Yes?

1 W. Garcia

2 A Yes. Because when we passed by,  
3 there were no delis open at 6:00 in the morning,  
4 and if there was a deli on the way, we would  
5 stop.

6 Q Do you know what Cheerios are?

7 A Yes.

8 Q Do you know what a banana is?

9 A Yes.

10 Q Do you know what a frying pan is?

11 A Yes.

12 Q You could have made breakfast at  
13 home; right?

14 A Yes, but --

15 Q You didn't want to; right?

16 A No. It's too early. Sometimes we  
17 had to arrive at 5:00 in the morning at the  
18 yard, which means we would have to leave our  
19 house at 4:30 in the morning. I wasn't going to  
20 start cooking at 3:00 in the morning.

21 Q Did you ever make yourself  
22 breakfast at home?

23 A Yes.

24 Q Now, you want Suffolk Paving to  
25 pay you to eat your breakfast; correct?

1 W. Garcia

2 MS. GOLDBERG: Objection to form.

3 A Well, if -- because they would  
4 make us get there at 6:30 in the morning, and  
5 then we would have to start working. It was  
6 break time. They all ate and we worked.  
7 Sometimes it was -- sometimes we had time to  
8 eat.

9 Q Do you know what your collective  
10 bargaining agreement says about break time?

11 A No.

12 Q Do you know what your collective  
13 bargaining agreement says about travel time?

14 A No. But I would arrive to work at  
15 the time that they would tell me to.

16 Q The collective bargaining  
17 agreement told you what time to arrive at work?

18 MS. GOLDBERG: Objection to form.

19 Q You can disregard the statements  
20 of the person next to you and answer my  
21 question.

22 A No, I didn't know.

23 Q You never took the time to learn?

24 A No.

25 Q Did you ever meet anybody from

1 W. Garcia

2 your union?

3 A I met them, because they would  
4 arrive to the job or I had to go to the hall,  
5 but that's it.

6 Q Would you see them at least once a  
7 week?

8 A No, about once a month.

9 Q Once a month for all the years  
10 that you worked for Suffolk Asphalt?

11 A It was rare, the times that they  
12 would arrive to check on the job.

13 Q But you said you would see them  
14 once a month; right, or were you lying?

15 A No, approximately, one time, or  
16 maybe two times.

17 Q A month?

18 A Yes.

19 Q And you would speak to them;  
20 right?

21 MS. GOLDBERG: Objection to form.

22 Q You can answer.

23 A Only I would greet them.

24 Q You'd say hello?

25 A Yes.



1 W. Garcia

2 Q And they'd say hello back?

3 A Yes.

4 Q You had the ability to complain to  
5 them; correct?

6 A Yes.

7 Q After all, you pay them money, so  
8 you could complain to them; right?

9 MS. GOLDBERG: Objection to form.  
10 Go ahead, you can answer.

11 A That if I pay them money so that I  
12 can complain?

13 Q Yes.

14 A Yes, but I didn't know that it was  
15 a union.

16 Q What did you think it was, a drug  
17 cartel?

18 MS. GOLDBERG: Objection.

19 A Well, when Suffolk -- when Louie  
20 told me to go to the union, I never knew it was  
21 the union. Last year when I went and they found  
22 out -- they heard about this case, they told us  
23 they were our boss -- my boss, not Louie.

24 Q The union said that the union was  
25 your boss?

1 W. Garcia

2 A That I worked for them and not for  
3 the company.

4 Q Are you suing them?

5 A The union? No.

6 Q Why not; they were your boss?

7 A Because the one that was paying me  
8 with Suffolk Paving, Suffolk Asphalt.

9 Q But I thought you just said that  
10 the union was your boss?

11 MS. GOLDBERG: Objection.

12 A I didn't know until they told me  
13 last year that I worked for them and not for the  
14 company. Any complaints, you let us know. You  
15 either come or you call.

16 Q Who in the union said that to you?

17 A Bill.

18 Q Bill who?

19 A I just know his name is Bill, and  
20 he works in the hall.

21 Q And you give Bill money; right?

22 A I give money to the union that  
23 every month -- every month it's paid, \$12.

24 Q You give it to Bill; right?

25 A No, not Bill. Chris is always

1 W. Garcia

2 there or John. I don't know.

3 Q And the union takes money out of  
4 your paycheck every month; right?

5 A Yes.

6 Q The union is paid about \$30 an  
7 hour for you; right?

8 A Yes.

9 Q So when you said you only make \$45  
10 an hour, that's not true; correct?

11 MS. GOLDBERG: Objection to form.

12 Q Correct?

13 A No, that's what I earn.

14 Q Well, if that's what you get paid,  
15 and the union gets about \$30 an hour more,  
16 you're earning a lot more than that; right?

17 MS. GOLDBERG: Objection to form.

18 Q Correct?

19 A Yes, but I only worried about what  
20 I took home.

21 Q You don't care about how much the  
22 union steals from you; right?

23 MS. GOLDBERG: Objection to form.

24 A Well, I don't know if they steal,  
25 but if they steal, they should know.

1 W. Garcia

2 Q They should know what?

3 A If they're stealing.

4 Q Well, don't you ever look at your  
5 paychecks?

6 A Yes.

7 Q What does it say you get paid an  
8 hour in pay and in benefits?

9 A More than \$45.

10 Q How much more?

11 A I don't know.

12 Q You have no idea?

13 A What I do know is that the union  
14 stays with some money. The company pays the  
15 union, but from there, I don't know any more.

16 Q You never looked at your paychecks  
17 to see?

18 MS. GOLDBERG: Objection to form.

19 A No, I only was made aware of how  
20 many hours were paid and how much I was paid.  
21 That's all I found out about.

22 Q So you never actually looked at  
23 your paycheck to see how it was broken down; did  
24 you?

25 MS. GOLDBERG: Objection to form.

1 W. Garcia

2 A The truth is no.

3 Q Okay, that's important. I  
4 appreciate the truth. Thank you.

5 You want that coffee now?

6 A No, I still have my juice.

7 Q Jugo?

8 A Yes.

9 Q How much money do you want from  
10 the defendants in this case?

11 A Only what they owe me.

12 Q How much?

13 A Between ten and twenty hours a  
14 week of overtime.

15 Q How much?

16 A Between \$1,000 to \$1,800, I think  
17 it is.

18 Q So that's what you're suing for;  
19 between \$1,000 and \$1,800?

20 MS. GOLDBERG: Objection to form.

21 A Per week.

22 Q How much did you make a week?

23 A If I worked forty hours, he would  
24 pay me \$1,200, but I knew that I worked more  
25 than fifty hours; up to seventy hours.

1 W. Garcia

2 Q But you never complained to the  
3 union; did you?

4 A No, because I thought that they  
5 could have been united.

6 Q And you wanted to get paid for the  
7 period of time that you ate lunch; correct?

8 MS. GOLDBERG: Objection to form.

9 Q Yes or no?

10 A No, no, I didn't eat lunch at the  
11 time that they said.

12 Q And you wanted to get paid for the  
13 time that you would order and eat your egg  
14 sandwiches and sit in the morning; right?

15 MS. GOLDBERG: Objection to form.

16 Q You just testified you did.

17 A (No verbal response.)

18 Q Right?

19 A (No verbal response.)

20 Q Right; yes or no?

21 A Okay, yes.

22 Q And you want to get paid for the  
23 time that you played soccer; right?

24 MS. GOLDBERG: Objection to form.

25 Q Yes or no?

1 W. Garcia

2 A It wasn't all the time that we  
3 played.

4 Q I know, but sometimes you did  
5 play, you wanted to get paid for that; right?

6 A (No verbal response.)

7 Q Yes?

8 MS. GOLDBERG: Objection to form.

9 Q Yes?

10 A It wasn't our fault.

11 Q It wasn't your fault that you  
12 played soccer?

13 MS. GOLDBERG: Objection to form.

14 A Waiting for the trucks to arrive.

15 Q It wasn't your fault that you were  
16 playing soccer; right?

17 MS. GOLDBERG: Objection to form.

18 Q Is that what your testimony is?

19 A We played soccer two times --  
20 well, two times that we played.

21 Q What about the times that you  
22 played catch, how many times did you play catch?

23 A When we played soccer, it was like  
24 two times. That's it. My job is to be rolling,  
25 and if it's cold and I leave a line, it's a

1 W. Garcia

2 complaint for me. I needed to be sure that  
3 there were no lines, and at that moment when I  
4 was working, other guys were waiting for the  
5 asphalt.

6 Q But not you. You were never  
7 waiting; right?

8 MS. GOLDBERG: Objection to form.

9 A It was very, very rarely that I  
10 would be with them there, but always -- I didn't  
11 even have time to eat, nevertheless play.

12 Q You look like you had time to eat.

13 MS. GOLDBERG: Objection to form.

14 A Like now, we went to buy a  
15 sandwich --

16 Q Did she buy you a sandwich?

17 A -- and I ate it on the way here.

18 Q Did she at least pay for it?

19 A No.

20 Q No?

21 A No, I paid.

22 Q She didn't even buy you a  
23 sandwich?

24 A No.

25 Q That's sad; right?



1 W. Garcia

2 MS. GOLDBERG: Objection.

3 A But she took me in her car.

4 Q Nice car?

5 A Very nice.

6 Q Did you put your seat belt on?

7 A Yes.

8 Q You better watch out. She might  
9 want to get paid for that.

10 MS. GOLDBERG: Objection.

11 A Okay.

12 Q Did you buy her lunch?

13 A No.

14 Q How did your employment come to an  
15 end at Suffolk Paving?

16 A Same as always.

17 Q How does it always end?

18 A Working a lot and getting paid  
19 less than what we worked.

20 Q You've got to listen to the  
21 questions; okay?

22 A Okay.

23 Q Did you get fired from  
24 Suffolk Paving?

25 A Yes.

1 W. Garcia

2 Q When did you get fired from  
3 Suffolk Paving?

4 A The 19th of December.

5 Q Of what year?

6 A 2009.

7 Q How were you fired?

8 A They never called me. They always  
9 called me to go shovel snow. In April, I was  
10 calling Louie Vecchia, and he would tell me next  
11 week, next week. Four weeks passed, and after  
12 that, he wouldn't answer, so then I went to the  
13 office, and I asked him if he had work for me,  
14 and he said no, that because of what was being  
15 done, he didn't need me anywhere.

16 Q Meaning, because he didn't have  
17 the work for you; correct?

18 A Because of this case.

19 Q You know how I know you're lying  
20 to me right now?

21 MS. GOLDBERG: Objection.

22 Q Do you know how I know?

23 A I'm not lying.

24 Q You are lying, because you told me  
25 you didn't work for Suffolk Paving in 2009;

1 W. Garcia

2 right? Isn't that what you testified to?

3 MS. GOLDBERG: Objection.

4 A I did work for Suffolk Paving  
5 in 2009.

6 Q Not according to your testimony.  
7 You worked for Suffolk Asphalt?

8 A Oh, I'm sorry.

9 Q Don't be sorry. Just don't lie to  
10 me.

11 A I knew it was more for  
12 Suffolk Paving, because we worked more for  
13 Suffolk Paving, but yes, at the end, we worked  
14 for Suffolk Asphalt.

15 Q Who owns Suffolk Asphalt? Don't  
16 guess. Just tell me if you know.

17 A Louis Vecchia and Chris. It says  
18 on the cards that he's a president.

19 Q That's it; right?

20 A That's what I know.

21 Q How do you know that?

22 A Because Louie is always the one  
23 that his son -- on the card, it says  
24 Christopher Vecchia, President.

25 Q What telephone number did you call

1 W. Garcia

2 when you called Louis Vecchia?

3 A (631)-232-1191.

4 Q From what number did you call that  
5 number?

6 A I'm sorry. From that number, I  
7 would call Louie.

8 Q Is this your number, 232-1191?

9 A That's the number that I had  
10 before, but I moved it. Now I have a new  
11 number.

12 Q Where are your phone records from  
13 that number, or did you destroy them?

14 MS. GOLDBERG: Objection to form.

15 A I imagine I must have one bill in  
16 the house.

17 Q Did you provide it to your  
18 attorney?

19 A No.

20 Q Did your attorney tell you to  
21 preserve those records?

22 MS. GOLDBERG: I'm going to  
23 instruct him not to answer. You've asked  
24 for attorney/client privilege.

25 Q Did anybody ever tell you to

1 W. Garcia

2 preserve those documents?

3 A No.

4 Q Nobody told you to preserve it?

5 A No.

6 Q So you destroyed documents that  
7 were necessary for this litigation; correct?

8 MS. GOLDBERG: Objection to form.

9 Q You destroyed the documents that  
10 were necessary; right?

11 MS. GOLDBERG: Objection to form.

12 Q Yes or no?

13 A I didn't destroy any paper, but my  
14 wife always saves papers.

15 Q So you have all your phone bills?

16 A Not all.

17 Q Well, if you don't have all of  
18 them, then you destroyed some of them; correct?

19 MS. GOLDBERG: Objection to form.

20 A Like anything else, if a lot of  
21 time has passed, you rip up the papers or you  
22 throw them out.

23 Q Did you throw them out or did your  
24 wife?

25 MS. GOLDBERG: Objection to form.

1 W. Garcia

2 A It's always her who is going  
3 through the papers, and if she threw them out,  
4 she threw them out. If not, then there has to  
5 be more than one.

6 Q Maybe we have to get her in here  
7 to testify; right?

8 A Okay, if it's necessary, but what  
9 I know is I'm the one that worked at  
10 Suffolk Paving/Suffolk Asphalt, so why would she  
11 need to come here if she didn't even know the  
12 yard?

13 Q Because if she destroyed your  
14 documents, the documents that would prove some  
15 of the things that you're saying, it would be  
16 relevant for this case. I'm surprised nobody  
17 explained that to you.

18 MS. GOLDBERG: Objection. And I  
19 see -- let the record reflect that you're  
20 pointing the pen at me, and so if you are  
21 trying to elicit, again, communication  
22 between me and my client, I'm going to  
23 instruct him not to disclose anything  
24 that's been said between he and I as  
25 attorney/client privilege.

1 W. Garcia

2 MR. ZABELL: Are you finished?

3 MS. GOLDBERG: I am finished.

4 MR. ZABELL: Good. Please remain  
5 silent.

6 Q Did anybody ever instruct you that  
7 you have to save documents if you're involved in  
8 a litigation?

9 A When I moved from my house --

10 Q Yes or no? Just answer the  
11 question.

12 A I didn't know about this case. I  
13 wasn't thinking.

14 Q You weren't thinking?

15 A I never thought about saving  
16 documents and less to even save a telephone  
17 bill.

18 Q Did you ever use any  
19 Suffolk Asphalt or Suffolk Paving equipment for  
20 your personal benefit?

21 A Equipment as in machinery? No.

22 Q What about equipment as in  
23 materials?

24 A No. The only thing that I said to  
25 Louie was to lend me the box truck to move from

1 W. Garcia

2 Huntington to Brentwood.

3 Q Did he lend you the box truck?

4 A Yes.

5 Q That was nice of him; correct?

6 A Yes.

7 Q This is how you repay him; right?

8 MS. GOLDBERG: Objection.

9 Q Right?

10 A (No verbal response.)

11 I'm going to say something --

12 Q Right?

13 MS. GOLDBERG: Objection.

14 Q Just answer the question, nothing  
15 else. Just answer the question.

16 A One day --

17 Q Just answer the question.

18 A One day he made me get there at  
19 5:00 in the morning, and we were going to  
20 Southampton, and I came back at 9:30 at night,  
21 but he paid me. I said to him, Louie, where is  
22 my overtime? He said to me -- he took out the  
23 check, the envelope, and he said to me, look how  
24 much money you take to your house. You make a  
25 lot of money. Go to work.



1 W. Garcia

2 Q Do you know how I know you're  
3 lying to me?

4 MS. GOLDBERG: Objection.

5 Q Because you said you were in  
6 church at that time every night during the week.

7 So you were lying before, or are  
8 you lying now?

9 MS. GOLDBERG: Objection.

10 Q Were you lying before, or are you  
11 lying now?

12 MS. GOLDBERG: Objection.

13 A Like I said before, when I have  
14 time -- if I have time, again, I go to church.

15 Q So you were lying before?

16 MS. GOLDBERG: Objection.

17 Q Does your wife know that you lie  
18 about these things?

19 MS. GOLDBERG: Objection.

20 A With regard to?

21 Q Your testimony.

22 A If she were here, she would know  
23 that if I arrived late, it was because I get out  
24 of work late.

25 Q Did you ever claim unemployment

1 W. Garcia

2 benefits?

3 A No.

4 Q Why?

5 A Because I can't.

6 Q Why can't you?

7 MS. GOLDBERG: Objection.

8 I'm going to instruct him not to  
9 answer that question as, again, I think  
10 we are bridging into areas that are  
11 covered by the protective order.

12 MR. ZABELL: Do you have a  
13 good-faith reason to believe that?

14 MS. GOLDBERG: Yes.

15 Mr. ZABELL: What is your  
16 good-faith reason to believe that?

17 MS. GOLDBERG: I don't need to  
18 disclose that to you.

19 MR. ZABELL: Sure, you do.

20 MS. GOLDBERG: No, I don't.

21 MR. ZABELL: Well, you absolutely  
22 do.

23 MS. GOLDBERG: Well again, I  
24 think that this is --

25 MR. ZABELL: You have to

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W. Garcia

understand that I'm not at all interested in what you think, because I have found your thought process to be flawed throughout this entire litigation.

You have to have a good-faith reason to believe that the answer to this question is, no, I don't apply for unemployment benefits, because I am a illegal alien. If you do not have a good-faith reason to believe that, you do not have a basis for making this assertion, and all you're doing is guaranteeing this man is going to have to take off another day from work and come down here to answer my questions.

MS. GOLDBERG: Well, again, I think this is exactly the information that you're trying to get.

MR. ZABELL: What information?

MS. GOLDBERG: The exact information that is covered by the protective order.

MR. ZABELL: His immigration status is the only thing covered by the

1 W. Garcia

2 protective order?

3 MS. GOLDBERG: Correct.

4 MR. ZABELL: I'm not asking him  
5 about his immigration status. I'm asking  
6 him about applying for unemployment  
7 benefits.

8 Do you understand that, Counselor?

9 MS. GOLDBERG: You asked --

10 MR. ZABELL: Yes or no?

11 MS. GOLDBERG: You asked him --

12 MR. ZABELL: Yes or no, Counselor?

13 MS. GOLDBERG: You asked him  
14 whether he applied, and he indicated to  
15 you, no. Then, you have followed that up  
16 with, why? What other information could  
17 that be seeking?

18 MR. ZABELL: The reason why he  
19 didn't apply for unemployment benefits,  
20 which very well may be other jobs, but  
21 you don't know that; I don't know that.  
22 He's got to tell us that.

23 Q Why didn't you apply for  
24 unemployment benefits?

25 MS. GOLDBERG: Again, I'm going to

1 W. Garcia

2 instruct him not to answer.

3 Q Answer the question.

4 A Because I can't.

5 Q Why can't you?

6 MS. GOLDBERG: Again, I'm going to

7 instruct the witness not to answer.

8 Q Why can't you?

9 MS. GOLDBERG: Mr. Zabell --

10 Q Why can't you?

11 MS. GOLDBERG: Again, I'm going --

12 Q Why can't you?

13 MS. GOLDBERG: I'm going to

14 instruct him not to answer.

15 Q Why can't you?

16 MS. GOLDBERG: Again, I'm going to

17 instruct him not to answer.

18 Q Are you refusing to answer the

19 question?

20 MS. GOLDBERG: I'm instructing him

21 not to answer.

22 Q Are you refusing to answer the

23 question?

24 MS. GOLDBERG: I am instructing

25 him not to answer the question.

1 W. Garcia

2 Q Are you refusing to answer the  
3 question?

4 MS. GOLDBERG: I'm instructing him  
5 not to answer the question.

6 A I can't answer that.

7 Q Why?

8 A I can't.

9 MS. GOLDBERG: Again, I'm  
10 instructing him not to answer.

11 Q Why can't you answer that  
12 question?

13 MS. GOLDBERG: Again, I'm  
14 instructing him not to answer the  
15 question.

16 Q Why can't you answer that  
17 question?

18 MS. GOLDBERG: Again, I'm going to  
19 instruct him not to answer the question.

20 Q Tell me why you can't answer that  
21 question.

22 MS. GOLDBERG: Again, I'm  
23 instructing him not to answer.

24 Q You have to tell me why you cannot  
25 answer that question.

1 W. Garcia

2 MR. ZABELL: That is not a  
3 privileged issue. That is not something  
4 you have a right to object to.

5 Q Why can't you answer that  
6 question? Do you not have the information?

7 MS. GOLDBERG: Again, I'm going to  
8 instruct him not to answer the question.

9 Q Are you refusing to answer the  
10 question on the grounds that it may incriminate  
11 yourself?

12 MS. GOLDBERG: I'm going to  
13 instruct him not to answer the question.

14 Q Did you violate a law?

15 MS. GOLDBERG: Objection to form.

16 A It's just that I can't answer it.

17 Q Did you violate a law?

18 MS. GOLDBERG: Objection to form.

19 Q Go ahead, you can answer.

20 MS. GOLDBERG: Again, I'm going --

21 Q Did you violate a law?

22 MS. GOLDBERG: I'm going to object  
23 to this whole line of questioning.

24 Q Did you violate a law?

25 MS. GOLDBERG: You know what?

1 W. Garcia

2 Let's call the Judge. Let's call the  
3 Judge, again.

4 Q Did you violate a law?

5 MS. GOLDBERG: Let's call the  
6 Judge now. Mr. Zabell, I'm --

7 Q Did you violate a law?

8 MS. GOLDBERG: Mr. Zabell, I'm  
9 instructing my client not to answer this  
10 line of questioning.

11 Q Did you violate a law?

12 MS. GOLDBERG: Again, let's  
13 please call the Judge, again.

14 Q Did you violate a law?

15 MS. GOLDBERG: Again, I'm  
16 instructing my client not to answer.

17 Let's please call the Judge if you  
18 would like a ruling on this.

19 Q What is your answer, sir?

20 MS. GOLDBERG: Again, I'm going to  
21 instruct him not answer. Let's call the  
22 Judge.

23 Q What is your answer, sir?

24 MS. GOLDBERG: I'm instructing him  
25 not to answer.



1 W. Garcia

2 Q What is your answer?

3 MS. GOLDBERG: I'm instructing him  
4 not to answer.

5 A My answer is what I'm saying. I  
6 can't answer.

7 Q Are you saying you can't answer,  
8 because your lawyer told you not to answer?

9 MS. GOLDBERG: I'm instructing him  
10 not to answer, so when he is instructed  
11 not to answer, that means he shouldn't  
12 answer, so asking him why he's not  
13 answering is inappropriate.

14 Q Answer the question.

15 MS. GOLDBERG: There is no  
16 question put before him.

17 A Yes, because it's something that  
18 is personal.

19 Q So you're not answering because of  
20 personal reasons?

21 A That question, I am not able to  
22 answer for personal reasons, but the other ones,  
23 yes.

24 Q What personal reasons?

25 A What he is telling me now.

1 W. Garcia

2 Q I'm the only "he" in the room.

3 What are your personal reasons?

4 MS. GOLDBERG: I'm going to  
5 instruct him not to answer. Again, we're  
6 all going back to the same line of  
7 arguing here.

8 I would ask that we call the Judge  
9 if you want a ruling on this; otherwise,  
10 please move on to your next area.

11 A (No verbal response.)

12 MS. GOLDBERG: We can sit here, or  
13 you can try calling the Judge, again, if  
14 you'd like a ruling on this.

15 Q I'm waiting for your answer.

16 MS. GOLDBERG: Mr. Zabell, I've  
17 instructed him not to answer these  
18 questions.

19 Again, this is all going back to  
20 the protective order, so call the Judge  
21 and get a ruling.

22 Q What are your personal reasons?  
23 Is it because you were told not to answer my  
24 questions?

25 A Because it's a case very, very

1 W. Garcia

2 personal.

3 Q What is so personal?

4 MS. GOLDBERG: Again, I'm  
5 instructing him not to answer these  
6 questions. This all goes back to what is  
7 covered by the protective order.

8 Q Did you ever share the personal  
9 reason with anybody?

10 MS. GOLDBERG: Again, I'm going to  
11 instruct him not to answer these  
12 questions.

13 Q Did you ever share this very, very  
14 personal reason with anybody?

15 MS. GOLDBERG: Again, I'm going to  
16 instruct him not to answer the question.

17 Q Yes or no?

18 A Yes.

19 Q With whom did you share it?

20 A Coworkers.

21 Q Who were the coworkers?

22 A Coworkers that are in the same  
23 case.

24 Q What are their names?

25 A Many, many.

1 W. Garcia

2 Q What are their names?

3 A Friends.

4 Q I want to know their names. If  
5 you shared this information, you have to tell me  
6 their names.

7 A Okay, Pablo.

8 Q Pablo what?

9 A Pablo Santos.

10 Q Who else?

11 A David.

12 Q David who?

13 A David Cotzaji (phonetic),  
14 C-O-T-Z-A-J -- I don't know how to spell it.

15 Q Who else?

16 A Many that are from -- from --

17 Q Did you share it with  
18 Nelson Quintanilla?

19 A No.

20 Q Did you share it with  
21 Alejandro Amaya?

22 A No.

23 Q Did you share it with Alex Amir  
24 Arevalo?

25 A No.

1 W. Garcia

2 Q Did you share it with  
3 Maynor Fajardo?

4 A No.

5 Q Did you share it with  
6 Jose Martinez?

7 A No.

8 Q Did you share it with  
9 Pracelis Mendez?

10 A No.

11 Q Did you share it with  
12 Osmar Pagoada?

13 A No.

14 Q Did you share it with  
15 Javier Quintanilla?

16 A No.

17 Q Did you share it with  
18 Edwin Rivera?

19 A No.

20 Q Did you share it with  
21 Carlos Escalante?

22 A None of the names that are there.

23 Q Did you share it with  
24 Kevin Galeano?

25 A No.

1 W. Garcia

2 Q Did you share it with  
3 Lerly Noe Rodriguez?

4 A No.

5 Q Did you share it with  
6 Jose Vega Castillo?

7 A No.

8 Q Did you share it with  
9 Juan Quinteros?

10 A No.

11 Q Did you share it with  
12 Marcos Tulio Perez?

13 A No.

14 Q Did you share it with  
15 Patrick McNamara?

16 A No.

17 Q Did you share it with Louis Vecchia?

18 A No.

19 Q Did you share it with  
20 Helene Vecchia?

21 A No.

22 Q Did you share it with  
23 Christopher Vecchia?

24 A No.

25 Q Who are these people that you

1 W. Garcia

2 shared it with?

3 A Well, the ones from church.

4 Q The people that you go to church  
5 with are your coworkers?

6 A Yes.

7 Q What are their names, because I'd  
8 like to speak to them too?

9 A All of them. Do you want me to  
10 give the names of everyone?

11 Q Yes.

12 A Okay.

13 Q You may do so.

14 A You want the whole list? There  
15 are several; About 150 to 200.

16 Q Tell me the list that you shared  
17 this information with, this very, very personal  
18 information that you make reference to. Go ahead.

19 A The first one that knows it is my  
20 pastor.

21 Q And his name is?

22 A Marco Lopez.

23 Q And you work with Marco Lopez;  
24 right?

25 MS. GOLDBERG: Objection to form.

1 W. Garcia

2 A I don't work with Marco Lopez.

3 Q You see, before you told me you  
4 told lots of people you work with who are all in  
5 the same position.

6 Are you now lying to me?

7 MS. GOLDBERG: Objection to form.

8 A I didn't say that they worked. I  
9 just said that I had shared.

10 Q No, you said you shared it with  
11 coworkers.

12 MR. ZABELL: Right?

13 THE INTERPRETER: Yes.

14 MS. GOLDBERG: Objection to form.

15 Q Are you now saying that you didn't  
16 say "coworkers"? That would be a lie.

17 A I didn't say coworkers.

18 Q Are you lying to me? You did say  
19 coworkers.

20 This woman takes down every word  
21 you say.

22 A I said some coworkers.

23 Q No, no, no, no, no. You said you  
24 shared it with your coworkers.

25 MS. GOLDBERG: Objection to form.



1 W. Garcia

2 Q I asked you to not lie to me.

3 A I remember that I said compañeros,  
4 co-companions.

5 THE INTERPRETER: The interpreter  
6 would like to clarify.

7 In English, companion means  
8 person. In Spanish, we refer to  
9 coworkers as compañeros.

10 MR. ZABELL: Yes. You translated  
11 it before. I know he said coworkers.

12 If he wants to lie now, I can't  
13 stop him from lying. All I can do is  
14 hold him responsible for it.

15 Q You know what that means, being  
16 held responsible for lying at a deposition;  
17 right?

18 MS. GOLDBERG: Objection to form.

19 Q You know what that means; right?

20 A In Spanish, compañeros -- I didn't  
21 say compañeros from work. I didn't say  
22 coworkers.

23 Q Sure, you did.

24 MS. GOLDBERG: Objection to form.

25 A No.

1 W. Garcia

2 Q Sure, you did.

3 A No.

4 Q Did you ever talk about this case  
5 with your wife present?

6 A It's not necessary to speak  
7 because she knows it.

8 Q Did you ever speak about this case  
9 with your girlfriend?

10 MS. GOLDBERG: Objection to form.

11 A She knows it.

12 Q What's your girlfriend's name?

13 A My wife, not my girlfriend.

14 Q You just told me about your  
15 girlfriend. You said that she knows about it.

16 A Right.

17 Q Does your wife know about your  
18 girlfriend?

19 MS. GOLDBERG: Objection.

20 A She's my only one, my wife and my  
21 girlfriend. I don't...

22 Q You don't what?

23 A I never said my girlfriend. I  
24 didn't say my girlfriend, or possibly I made a  
25 mistake or I didn't hear well.

1 W. Garcia

2 Q When did you make this mistake?

3 MS. GOLDBERG: Objection.

4 A Well, no -- that you were saying  
5 to me that if my wife knows about this case.

6 Q When did you make this mistake  
7 that you're talking about?

8 MS. GOLDBERG: Objection.

9 THE WITNESS: When he says that he  
10 was talking to me about my wife, and I  
11 didn't hear that he said my girlfriend.  
12 I thought he was talking about my wife  
13 and I made a mistake. I got confused.

14 Q You got confused a lot today;  
15 didn't you?

16 MS. GOLDBERG: Objection.

17 A Two, three times, I think.

18 Q Those are the two, three times you  
19 said a lie?

20 MS. GOLDBERG: Objection.

21 A I've gotten confused. I haven't  
22 lied.

23 Q So when you've said things that  
24 are not true, you don't consider that to be a  
25 lie?

1 W. Garcia

2 MS. GOLDBERG: Objection to form.

3 Q Yes or no?

4 A Because from a conversation to the  
5 truth, is a lot of difference.

6 Q Were you confused when you lied to  
7 the State of Maryland?

8 MS. GOLDBERG: Objection to form:

9 A No.

10 Q No, you knew what you were doing;  
11 right?

12 A Yes.

13 Q You were lying to get something  
14 that you wanted; right?

15 MS. GOLDBERG: Objection to form.

16 A Yes.

17 Q Like you're doing here today;  
18 right?

19 MS. GOLDBERG: Objection to form.

20 Q Right?

21 A (No verbal response.)

22 Q Right?

23 A (No verbal response.)

24 Q Right?

25 MS. GOLDBERG: Objection to form.

1 W. Garcia

2 A If I'm lying because of my wife or  
3 my girlfriend, possibly I got confused, but in  
4 making a mistake in the rest of the question, I  
5 don't think I've made a mistake. I think I'm  
6 saying the truth.

7 Q Like you told the truth to the  
8 State of Maryland when you got your drivers's  
9 license; right?

10 MS. GOLDBERG: Objection to form.

11 A No.

12 Q No? You lied there, right?

13 MS. GOLDBERG: Objection to form.

14 A Yes, I lied for my license.

15 Q Like you're lying today; right --

16 MS. GOLDBERG: Objection to  
17 form.

18 Q -- for something else you want;  
19 right?

20 MS. GOLDBERG: Objection form.

21 Q Correct?

22 MS. GOLDBERG: Objection.

23 Q Please just answer yes or no.  
24 Do you not have the ability to  
25 answer yes or no?

1 W. Garcia

2 MS. GOLDBERG: Objection to form.

3 A Because I have to say --

4 Q Yes or no?

5 A I am only saying the truth.

6 Q Yes or no?

7 MS. GOLDBERG: Objection to form.

8 I'm not even sure I know what the  
9 question is.

10 A No, today I'm not lying.

11 Q You just told me today you lied.

12 MS. GOLDBERG: Objection to form.

13 Q First, about your girlfriend, then  
14 about your wife, then about your license. You  
15 said you were willing to lie to get what you  
16 want.

17 MS. GOLDBERG: Objection.

18 Q That's what you testified about  
19 today.

20 A With regard to my license.

21 Q That's the only thing you lied  
22 about, just your license and maybe to conquer a  
23 woman; right?

24 MS. GOLDBERG: Objection to form.

25 A The one that I conquered, I

1 W. Garcia

2 conquered, and I have her at home.

3 Q Did you lie to her --

4 MS. GOLDBERG: Objection to form.

5 Q -- ever?

6 A Sometimes I have.

7 Q Just a little bit; right?

8 A The truth; yes.

9 Q Just to get what you wanted;  
10 right?

11 MS. GOLDBERG: Objection to form.

12 A But not for infidelity.

13 Q That, you never have to lie about;  
14 right?

15 A Of that, no.

16 MS. ZABELL: I think this would be  
17 a good time to take a break.

18 (Whereupon, a recess was taken at  
19 this time from 3:53 p.m. until 4:15 p.m.)

20 MR. ZABELL: Madame Interpreter,  
21 you wanted to make a statement on the  
22 record; correct?

23 THE INTERPRETER: Yes, I would.

24 The interpreter would like to make  
25 a clarification, based on the

1 W. Garcia

2 interpreter's linguistic experience.

3 MR. ZABELL: Yes, go ahead.

4 THE INTERPRETER: "Compañeros," as  
5 used by the Plaintiff, is a person that  
6 is part of a group, such as, work,  
7 school, or team which is linked by a  
8 common goal. When referred to as an  
9 individual, it is a male partner of an  
10 intimate relationship.

11 Based on the language exchanged,  
12 it was clear to the interpreter that it  
13 was coworker, and therefore, the  
14 interpreter stands by her interpretation.

15 MR. ZABELL: Thank you. I stand  
16 by your interpretation, as well.

17 Q Don't lie; okay?

18 A I don't lie. I've been confused,  
19 yes, but I don't lie.

20 Q I know. Sometimes when people lie  
21 and get caught, they say they were confused.  
22 The smile on your face indicates you know what  
23 I'm saying.

24 MR. ZABELL: Let the record  
25 reflect that the deponent is smiling.



1 W. Garcia

2 MS. GOLDBERG: Actually, I would  
3 disagree with that characterization.

4 MR. ZABELL: Of course, you would.  
5 Let the record reflect that Ms. Goldberg  
6 is not smiling.

7 A My smile is possibly, because I  
8 know that I am telling the truth.

9 Q Sure.

10 Tell me about your novia.

11 A My wife.

12 Q No, no, not your wife, your  
13 girlfriend.

14 A I don't have a girlfriend.

15 Q You said before that you did.

16 A No.

17 Q Girlfriend only has one meaning to  
18 you; correct?

19 A Yes.

20 Q So when I asked you about your  
21 girlfriend before, it could only have one  
22 possible meaning; right?

23 MS. GOLDBERG: Objection.

24 A Yes.

25 Q So your answer is on the record

1 W. Garcia

2 and that's your answer; correct?

3 A But like I was saying, there was a  
4 confusion with my wife. My wife. Only my wife.

5 Q You would never confuse your wife  
6 with your girlfriend; correct?

7 MS. GOLDBERG: Objection.

8 A No, because she is my wife.

9 Q You would confuse your wife with  
10 your girlfriend?

11 MS. GOLDBERG: Objection.

12 A No.

13 Q Okay, that's what I thought.

14 A No, I don't have a girlfriend.

15 Q Now, have you ever gone by the  
16 name Walter Mendez?

17 A No.

18 Q Is Mendez your father's name?

19 A My mother.

20 Q Have you ever used your mother's  
21 name?

22 A No.

23 Q Okay, thank you.

24 Now, was it your testimony that  
25 you drove the box truck every day?

1 W. Garcia

2 A Not every day.

3 Q So other people would drive the  
4 box truck; right?

5 A Yes.

6 Q Do you know a man by the name of  
7 Lerly?

8 A Yes.

9 Q He would drive the box truck;  
10 right?

11 A Yes.

12 Q But not every day; right?

13 A Not every day.

14 Q And sometimes you could drive your  
15 car to a worksite; right?

16 MS. GOLDBERG: Objection.

17 Q Correct?

18 A Yes, sometimes, but --

19 Q You finished answering the  
20 question, so there is no need to continue  
21 talking.

22 The box truck had all the tools  
23 and supplies in it; correct?

24 A (Nodding.)

25 Q Si?

1 W. Garcia

2 A Yes.

3 MS. GOLDBERG: I would ask -- I do  
4 believe that the witness --

5 MR. ZABELL: You will remain  
6 silent.

7 MS. GOLDBERG: The witness has --

8 MR. ZABELL: You will remain  
9 silent and you will not coach this  
10 witness.

11 MS. GOLDBERG: The witness has  
12 provided additional statements --

13 MR. ZABELL: You will remain  
14 silent.

15 MS. GOLDBERG: -- that I do not  
16 believe were translated, because you  
17 interjected and I would just ask that --

18 MR. ZABELL: Lauren, stop it.

19 MS. GOLDBERG: If the witness has  
20 said something out loud, that too should  
21 be translated.

22 MR. ZABELL: Lauren, stop it.

23 MS. GOLDBERG: That's all I'm  
24 asking --

25 MR. ZABELL: Lauren, stop it.

1 W. Garcia

2 MS. GOLDBERG: -- just so the  
3 record is clear as to exactly what was  
4 said because --

5 MR. ZABELL: Stop it, because now,  
6 not only are you yelling at me, but  
7 you're yelling at the interpreter, and  
8 you're acting in a tremendously  
9 unprofessional manner.

10 I understand your frustration with  
11 this particular witness's testimony. I  
12 would be frustrated, but --

13 MS. GOLDBERG: I'm not frustrated.

14 MR. ZABELL: -- you cannot change  
15 the facts of this case --

16 MS. GOLDBERG: I'm not frustrated  
17 at his testimony --

18 MR. ZABELL: You and Ian --

19 MS. GOLDBERG: I'm frustrated --

20 MR. ZABELL: -- have chosen to  
21 proceed on a case where you have no basis  
22 to do so. You are putting both your  
23 profession reputation and your license in  
24 jeopardy by continuing, but that is your  
25 choice, and I will no longer continue to

1 W. Garcia

2 try to talk you out of it.

3 You are bound by the words that  
4 come out of this man's mouth.

5 MS. GOLDBERG: Are you done with  
6 your tirade? I'm just asking that  
7 everything he said be translated. That's  
8 all I'm asking, and that's all I've done.

9 MR. ZABELL: I see no reason to  
10 believe it has not.

11 MS. GOLDBERG: Just stating the  
12 facts that it has not.

13 MR. ZABELL: Would you like a few  
14 minutes to go gain some composure?

15 MS. GOLDBERG: No. I think you  
16 need a few minutes to go gain your  
17 composure.

18 MR. ZABELL: I think you're  
19 mistaken.

20 MS. GOLDBERG: Okay, then just  
21 proceed with your deposition.

22 MR. ZABELL: I don't particularly  
23 care for your attitude today.

24 MS. GOLDBERG: I don't  
25 particularly care for your attitude,

1 W. Garcia

2 either. You've been mischaracterizing  
3 the testimony all day long.

4 Q Have I been mischaracterizing the  
5 testimony, sir? No; right?

6 MS. GOLDBERG: You've been  
7 mischaracterizing all day long.

8 Q It's all good; right?

9 A Yes, sometimes you've changed.

10 Q But it's all good; right?

11 MS. GOLDBERG: I don't even know  
12 what you're asking him. I'm not sure  
13 what the question is. Why don't you put  
14 a question before him, and this way we  
15 can proceed?

16 MR. ZABELL: Lauren, it really  
17 doesn't matter whether or not you  
18 understand this proceeding. If you  
19 understood this proceeding, you probably  
20 wouldn't be here right now, but you have  
21 chosen to continue, so whether or not you  
22 understand what is going on in this room  
23 around you is of little consequence to  
24 those of us that are paying attention and  
25 are proceeding with this case.

1 W. Garcia

2 Please remain silent. You may  
3 continue to object to the form of the  
4 question, whether or not it is  
5 objectionable, but other than that, your  
6 role is to remain silent. Please do so.  
7 Thank you.

8 Q Are you angry at me, sir?

9 MS. GOLDBERG: Objection.

10 A No.

11 Q Things are okay? You're good? Do  
12 you want some coffee?

13 A No.

14 Q You're sure? You like it black  
15 with sugar, light and sweet; right?

16 A Yeah, but I don't want coffee.

17 Q Now, when you do want coffee, do  
18 you like Dunkin' Donuts or 7-Eleven coffee?

19 A Coffee, coffee. For me, there is  
20 no difference.

21 Q Right. But when you were working  
22 for Suffolk Asphalt and Suffolk Paving, you  
23 would stop to get coffee; right?

24 MS. GOLDBERG: Objection to form.

25 Q Right?



1 W. Garcia

2 A Yeah, sometimes; yes.

3 Q You would go to 7-Eleven; right?

4 MS. GOLDBERG: Objection.

5 A Yes.

6 Q Because your colleagues like

7 7-Eleven coffee; right?

8 A Yes.

9 Q Your compañeros; right?

10 A (No verbal response.)

11 Q Right. You see? You're smiling.

12 You know what I'm talking about.

13 You like 7-Eleven coffee too?

14 A For me, there is no difference if  
15 it's 7-Eleven or Dunkin' Donuts.

16 Q But 7-Eleven is both tasty and  
17 economical; right?

18 MS. GOLDBERG: Objection.

19 A Yes. But truthfully, I don't like  
20 coffee. I drink it once in a while. Only when  
21 it's very cold and if I'm very sleepy.

22 Q How many days a week did you drive  
23 the box truck at Suffolk Asphalt?

24 A When I didn't drive the box truck,  
25 I would drive the utility truck. Regularly --

1 W. Garcia

2 normally, I always drove. It was rarely the  
3 times that I didn't drive.

4 Q No? None of the other workers,  
5 compañeros drove the trucks?

6 A Yes. Lerly drove the box truck,  
7 Edwin, Edwin Rivera, Nelson Quintanilla. That's  
8 it. Sometimes they drove.

9 Q When you would drive the box truck  
10 to a deli after leaving the office in the  
11 morning, the utility truck would join you,  
12 right, and you'd all go together?

13 MS. GOLDBERG: Objection.

14 A Yes.

15 Q Right. So sometimes there would  
16 be about eight of you outside the deli; correct?

17 MS. GOLDBERG: Objection to form.

18 A No.

19 Q Tell the truth.

20 A We weren't eight. It was four or  
21 five in the box truck, and it was another two in  
22 the other truck, the pickup truck.

23 Q Seven, maybe ocho?

24 MS. GOLDBERG: Objection to form.

25 Q Maybe?

1 W. Garcia

2 A Yes.

3 Q So I was right; right?

4 MS. GOLDBERG: Objection.

5 A Yeah, sometimes. Sometimes; yes.

6 Q Okay. I'm right today; correct?

7 MS. GOLDBERG: Objection.

8 A Yes. It was rarely the times that  
9 it was eight.

10 Q But sometimes it was; right?

11 MS. GOLDBERG: Objection to form.

12 A Yes.

13 Q Was that so difficult to tell me?

14 MS. GOLDBERG: Objection.

15 A I don't remember what you asked  
16 me.

17 Q Of course not.

18 Do you remember when you worked at  
19 Intercounty?

20 A Yes.

21 Q Who are the bosses at Intercounty?

22 A Moses and the other was Ricky.

23 Q They didn't like Suffolk Asphalt;  
24 right?

25 MS. GOLDBERG: Objection.

1 W. Garcia

2 A I don't know if they didn't like  
3 them. Well, they were the foremen. Now the  
4 owners, I never met them.

5 Q Did they ever say anything  
6 negative about Suffolk Asphalt or  
7 Suffolk Paving?

8 A No. The foremen?

9 Q Anybody at Intercounty.

10 A No.

11 Q What about the workers?

12 A The workers would ask me where I  
13 worked, when, where, but that was it. No more.

14 Q And the bosses at Intercounty  
15 never gave you any documents about  
16 Suffolk Asphalt or Suffolk Paving?

17 A No.

18 Q Did you review any of the  
19 documents that your attorneys' prepared in this  
20 case?

21 MS. GOLDBERG: Objection.

22 A No.

23 Q I didn't think so.

24 A I only looked -- saw the dates  
25 that were signed. That's it.

1 W. Garcia

2 Q Did you sign it?

3 A It was the Court stamp.

4 Q Did you sign the Court stamp?

5 A No.

6 Q Did you pay for that Court stamp?

7 A No.

8 Q Somebody paid that for you?

9 MS. GOLDBERG: Objection.

10 A I don't know.

11 Q You have no idea; right?

12 A No.

13 Q Did anybody ever tell you that  
14 there was an offer to settle this case?

15 A Yes.

16 Q When?

17 A Last week.

18 Q How much were you told?

19 A \$100,000.

20 Q Who told you that?

21 A Ian Wallace.

22 Q When did he tell you that?

23 MS. GOLDBERG: I'm going to object  
24 about any further questions that were  
25 discussed between Ian and this witness.

1 W. Garcia

2 I need you to translate this to  
3 him. All --

4 MR. ZABELL: Please.

5 MS. GOLDBERG: All --

6 MR. ZABELL: Say please like you  
7 have a modicum of manners.

8 MS. GOLDBERG: And you're one to  
9 be discussing that to me at the course of  
10 this deposition.

11 MR. ZABELL: Clearly.

12 MS. GOLDBERG: And the other  
13 depositions?

14 MR. ZABELL: Clearly.

15 MS. GOLDBERG: Tell him --

16 MR. ZABELL: Whoa, whoa, wait.

17 Do not interpret anything until  
18 she at least says please. She does not  
19 have a right to order you around. She  
20 can act with some semblance of an  
21 adult --

22 MS. GOLDBERG: Well, I would ask  
23 that you treat my client with some  
24 semblance of modicum.

25 MR. ZABELL: I always say please

1 W. Garcia

2 and thank you, so say please and thank  
3 you, and I will permit this.

4 MS. GOLDBERG: Please so very much  
5 translate this to my client.

6 MR. ZABELL: You may proceed.

7 MS. GOLDBERG: I'm instructing you  
8 not to answer questions that require you  
9 to discuss communications with Ian,  
10 myself, or Patrick.

11 THE WITNESS: Okay.

12 Q When did you have a discussion  
13 with Ian?

14 A Discussion?

15 Q Si.

16 MS. GOLDBERG: Without discussing --

17 Q Just tell me when.

18 MS. GOLDBERG: Without discussing  
19 what was said, if you can answer the  
20 question, answer the question.

21 Q When?

22 A Last week.

23 Q When?

24 A On Sunday.

25 Q Were you alone when you had this

1 W. Garcia

2 discussion with him?

3 A No.

4 Q Who was with you?

5 A It was Nelson Quintanilla, Jose  
6 Luis Martinez.

7 Q Jose and Luis Martinez?

8 A No, his name is Jose Luis.

9 Q So it's one person?

10 A Yes. And Alex, as well. I think  
11 that was it.

12 Q Was there anybody present who was  
13 not a plaintiff in this lawsuit?

14 A No.

15 Q Were you given an opportunity to  
16 accept the settlement?

17 MS. GOLDBERG: Excuse me.

18 I'm going to instruct you not to  
19 answer this question. This question now  
20 is requesting for attorney/client  
21 communication.

22 MR. ZABELL: No, it's not.

23 MS. GOLDBERG: Yes, it does.

24 MR. ZABELL: It calls for a  
25 yes-or-no answer. I'm going to ask you



1 W. Garcia

2 to reconsider your objection and I'm  
3 asking nicely.

4 MS. GOLDBERG: Why don't you just  
5 rephrase the question?

6 Q Were you given an opportunity to  
7 consider whether or not to accept the  
8 settlement?

9 A Yes, they gave me the opportunity.

10 Q Who did?

11 A No, no, no. The attorney told me --

12 MS. GOLDBERG: Wait. I know some  
13 Spanish, so you are not to disclose  
14 anything that the attorney has said.

15 MR. ZABELL: Unless he commented  
16 on my fabulous smile.

17 MS. GOLDBERG: There's not a  
18 question. Wait for him to ask a  
19 question.

20 Q Is there anything you want to say?

21 A No. I didn't understand what you  
22 said.

23 Q What didn't you understand?

24 A That why you had to laugh or  
25 something like that.

1 W. Garcia

2 MS. GOLDBERG: I don't think he  
3 understood your joke about --

4 MR. ZABELL: Lauren, nobody is  
5 talking to you.

6 MS. GOLDBERG: Well, you're giving  
7 him a very quizzical look.

8 MR. ZABELL: Nobody is talking to  
9 you, Lauren, so pipe down over there.  
10 Pipe down.

11 MS. GOLDBERG: (Inaudible.)

12 THE COURT REPORTER: I didn't hear  
13 you, Counselor Goldberg.

14 MR. ZABELL: Because she didn't  
15 say it loud enough.

16 THE COURT REPORTER: If you want  
17 it on the record, I didn't hear you.

18 MR. ZABELL: Do you not want what  
19 you said on the record?

20 MS. GOLDBERG: I just said that --  
21 nothing. Just keep going. There is  
22 nothing that I need, at this point, to be  
23 on the record.

24 Q Is there a paving season?

25 A Yes.

1 W. Garcia

2 Q When is that paving season?

3 A March to December.

4 Q That's because you can't lay  
5 asphalt when it's cold outside; right?

6 A Yes.

7 Q Every year you would get laid off  
8 from December to March; correct?

9 A Sometimes that they needed a job,  
10 a little job, they would call us, and if the  
11 climate was nice, we would go and work.

12 Q You would have a little job here  
13 and there, but nothing consistent; right?

14 A During those times, yes.

15 Q So you'd work maybe a day a week,  
16 or two days a week; right?

17 A No. Sometimes one day a month, or  
18 the snow...

19 Q Now, there are sometimes in the  
20 summer where there's not enough work to keep you  
21 busy; right?

22 MS. GOLDBERG: Objection to form.

23 Q You may disregard the objection  
24 and provide an answer.

25 A That there wasn't enough work?

1 W. Garcia

2 Q Correct.

3 A There was always work. Since we  
4 started in March, there was always work.

5 Q Are you talking about at  
6 Intercounty?

7 A No. I'm talking about  
8 Suffolk Paving and Suffolk Asphalt. When I  
9 started at Suffolk Asphalt, it was starting in  
10 April or the middle of April.

11 Q So you wouldn't even start in  
12 March?

13 MS. GOLDBERG: Objection to form.

14 A Maybe one day, not every day.

15 Q Did your employer have your  
16 cellphone number?

17 A Yes.

18 Q Would they contact you, or would  
19 they contact one person who would contact the  
20 whole group?

21 A They would call me.

22 Q Did you ever borrow any money from  
23 Suffolk Asphalt or Suffolk Paving?

24 A Yes.

25 Q How much money?

1 W. Garcia

2 A \$1,000, but Louis didn't want to  
3 give it to me. He told me that he wasn't a bank  
4 to be lending money.

5 Q So did he lend you money, or he  
6 didn't lend you money?

7 A I asked him, but he didn't give it  
8 to me.

9 Q When did you ask him?

10 A I don't remember.

11 Q Was it in 2009?

12 A No. 2006 or 2005, something like  
13 that.

14 Q Did you need to borrow the money  
15 for your novia?

16 MS. GOLDBERG: Objection to form.

17 A No. I needed to borrow the money  
18 for my wife -- not for my wife. To pay  
19 necessities with my wife.

20 Q What necessities?

21 A It wasn't easy to wait since  
22 December. That time it started snowing since  
23 November, and I stayed without work until April,  
24 and I needed to work. I needed to pay rent and  
25 food, so I went to Louis, and he told me that he

1 W. Garcia

2 was not a bank to lend money.

3 Q So in 2006, you wanted to borrow  
4 money in December of 2006; right?

5 MS. GOLDBERG: Objection to form.

6 Q Or December of 2005 into the  
7 beginning of 2006?

8 A In 2005 -- it had to be in 2005,  
9 because I was sure that I had work there.

10 Q So it was the end of 2005 going  
11 into 2006, not the end of 2006 going into 2007;  
12 right?

13 A No, it was 2005. I'm not sure,  
14 but I know that I asked him for money, because I  
15 had a need because I had no money, because I  
16 didn't have a job, but he never gave me.

17 Q That period of time that you're  
18 claiming that you didn't have a job is a period  
19 of time that you're looking for money in your  
20 lawsuit.

21 Do you know that?

22 MS. GOLDBERG: Objection to form.

23 Q Do you know that?

24 A I'm sorry, can you say that again?

25 Q Sure.

1 W. Garcia

2 That period of time that you said  
3 you weren't working is a period of time that  
4 you're suing for money in your lawsuit.

5 Do you know that?

6 MS. GOLDBERG: Objection to form.

7 A (No verbal response.)

8 Q Do you know that?

9 MS. GOLDBERG: Objection to form.

10 Q Come on, answer.

11 Do you know that?

12 A I knew that from December to March  
13 was really the time that we didn't work, but  
14 from March to April to December, I know that we  
15 worked a lot.

16 Q No, no. You're suing for the  
17 specific period of time that you're claiming  
18 that you were out of work. You're saying that  
19 you were working overtime when you weren't  
20 working at all. That seems dishonest.

21 MS. GOLDBERG: Objection.

22 A No.

23 Q Yes.

24 A Because they should have the  
25 record there of how much I worked, every time

1 W. Garcia

2 that I worked, and every time that I worked, it  
3 was more than ten hours.

4 Q We have the record of when you  
5 worked, and it's not what you remember. And  
6 that's why we believe you're lying.

7 When you tell us that you were out  
8 of work during periods of time that you claim in  
9 your lawsuit that you worked, it supports our  
10 position that you're a liar.

11 Do you know that?

12 A What I know is that I'm --

13 Q Do you know that; yes or no?

14 A -- saying the truth.

15 MS. GOLDBERG: Let the record  
16 reflect that Mr. Zabell is yelling at the  
17 witness.

18 Let him answer, then.

19 Objection to the form, but let him  
20 answer. You're screaming at him at this  
21 point. You can stare me down.

22 MR. ZABELL: I'm not staring you  
23 down.

24 MS. GOLDBERG: You can stare me  
25 down as much as you want, Mr. Zabell, but



1 W. Garcia

2 the fact is that my client is sitting  
3 here to answer questions, and you are  
4 screaming at him.

5 There's no need to be as -- you  
6 can treat him with some respect as he  
7 sits here and answers your questions.

8 MR. ZABELL: Are you finished?

9 MS. GOLDBERG: For now.

10 MR. ZABELL: I disagree with  
11 Ms. Goldberg's characterization, and I'm  
12 somewhat concerned by the manic behavior  
13 in which she is exhibiting those  
14 expressions, but I will continue; okay?

15 MS. GOLDBERG: I object to the  
16 word "manic."

17 Q Are you ready?

18 A I'm ready.

19 Q Did you ever look at the complaint  
20 that you filed in this case?

21 A Yes.

22 Q Did you read it?

23 A I tried to read it.

24 Q It's in English; right?

25 A Yes.

1 W. Garcia

2 Q And it wasn't interpreted into  
3 Spanish, was it?

4 A Yes, it was interpreted.

5 Q Good. Then, you know that there  
6 are periods of time that they claim you're  
7 entitled to damages that you were working for  
8 other employers; right?

9 MS. GOLDBERG: Objection to form.

10 Q Did you know that?

11 A I'm sorry. I didn't understand  
12 the question.

13 Q Did Louis Vecchia ever work for  
14 Safar Asphalt?

15 A I don't know.

16 Q Are they related to  
17 Suffolk Asphalt or Suffolk Paving?

18 A I don't know.

19 Q Tri-State, is Tri-State related to  
20 Suffolk Asphalt or Suffolk Paving?

21 A I don't know.

22 Q Banker Construction, are they  
23 related to Suffolk Asphalt or Suffolk Paving?

24 A I don't know.

25 Q Intercounty, are they related to

1 W. Garcia

2 Suffolk Asphalt or Suffolk Paving?

3 A I didn't know the owner. I don't  
4 know how much relationship they can have.

5 Q How about Newborn Asphalt, are  
6 they related to Suffolk Asphalt or  
7 Suffolk Paving?

8 A I don't know.

9 Q So you don't know much; correct?

10 MS. GOLDBERG: Objection to form.

11 A Yes, I don't know.

12 Q And you don't know what is in your  
13 actual complaint; do you?

14 MS. GOLDBERG: Objection to form.

15 Q Correct?

16 A Yes -- no.

17 Q I'm showing you Exhibit 5.

18 Do you see that?

19 A (Perusing.)

20 Q Are you finished looking at it?

21 A Yes.

22 Q Have you ever seen that before?

23 A No.

24 Q Does it look like a bulletin  
25 board?

1 W. Garcia

2 A Yes.

3 Q Did you ever see a bulletin board  
4 at the shop?

5 A Yes.

6 Q Did you ever see any of the  
7 posters on Exhibit 5 on that bulletin board?

8 A It spoke about the drivers, but it  
9 never said what it says there, that they were  
10 going to pay when we were at work. I never  
11 noticed that paper.

12 Q How did you find your lawyer?

13 A They helped us, ones who help  
14 workers.

15 Q How did you find them?

16 A They contacted them.

17 Q The lawyers contacted you?

18 A When we went to ask for help, they  
19 contacted the attorneys.

20 Q Who did you ask for help from?

21 A To the office. I didn't go. We  
22 all went to the office of where they help  
23 workers.

24 Q Where is that?

25 A Hempstead.

1 W. Garcia

2 Q So you went to some office in  
3 Hempstead and they set you up with her?

4 A Yes.

5 Q Where was that office in Hempstead  
6 located?

7 A On Franklin Avenue.

8 Q So you went to the State Division  
9 of Human Rights, and they set you up with  
10 Lauren Goldberg?

11 MS. GOLDBERG: Objection to form.

12 A It wasn't Human Rights. It was  
13 they who dedicate themselves to help workers.

14 Q What are "they who dedicate  
15 themselves to help workers" names; Steve, Mary,  
16 Joe?

17 A No.

18 Q Bruce?

19 A No, I don't remember. It's an  
20 office. I don't know. They only helped us. I  
21 never knew their names.

22 Q Then, you found yourself being  
23 solicited by attorneys?

24 MS. GOLDBERG: Objection to form.

25 Q You may answer.

1 W. Garcia

2 MS. GOLDBERG: I'm actually going  
3 to instruct him not to answer that  
4 question, because now, again, you're  
5 trying to solicit communications between  
6 myself, Ian, or Patrick.

7 MR. ZABELL: Well, we know it's  
8 not Patrick's fault. I suspect it's not  
9 Ian's fault.

10 Q Did you ever get a letter from an  
11 attorney before you filed your case?

12 A No.

13 Q A telephone call?

14 A No.

15 Q Did you ever get a call from this  
16 office?

17 A No.

18 Q Are you comfortable with the way  
19 this case is proceeding?

20 A Yes.

21 Q Have you been advised of your  
22 right to take the Fifth Amendment and not to  
23 provide answers to certain questions that are  
24 being asked of you?

25 A Yes.

1 W. Garcia

2 Q And you're aware that your  
3 specific testimony here today indicates that you  
4 violated the laws of various states?

5 MS. GOLDBERG: I'm going to  
6 instruct him --

7 MR. ZABELL: He may answer.

8 MS. GOLDBERG: I'm going to  
9 instruct you not to answer that question.

10 MR. ZABELL: On what basis?

11 MS. GOLDBERG: Again, I think that  
12 you are going into the areas that are  
13 specifically covered by the protective  
14 order.

15 Q You've admitted to violating the  
16 laws of the State of Maryland; have you not?

17 A Yes.

18 Q You understand that the answers  
19 that you gave here today indicate that you've  
20 engaged in criminal activity?

21 MS. GOLDBERG: Objection to form.

22 Q You may answer.

23 A I don't think that it's anything  
24 criminal.

25 Q You don't think lying to the State

1 W. Garcia

2 to get something that you don't deserve is  
3 criminal?

4 MS. GOLDBERG: Objection.

5 A I feel that I do deserve a  
6 license.

7 Q Maybe you do, but not in the State  
8 of Maryland; right?

9 MS. GOLDBERG: Objection.

10 Q Right?

11 A (No verbal response.)

12 Q Right?

13 A That --

14 Q Not por que.

15 A Why not if it's an identification?

16 Q Because you don't live there, so  
17 you lied, and you said you lived there in order  
18 to get it.

19 MS. GOLDBERG: Objection to form.

20 A But it's my ID.

21 Q But you lied to the Government to  
22 get it.

23 Is that the only time you've lied  
24 to the Government to get something that you  
25 didn't deserve?



1 W. Garcia

2 MS. GOLDBERG: Objection to form.

3 A I feel that I do deserve it and I  
4 needed it. That's why it was necessary.

5 Q So you lied to get something that  
6 you wanted; correct?

7 MS. GOLDBERG: Objection to form.

8 A Yes.

9 Q And you're completely comfortable  
10 doing that; correct?

11 MS. GOLDBERG: Objection to form.

12 Q Right?

13 A I needed -- because it's better  
14 for me to have an ID like this than not to have  
15 an ID.

16 Q Right. So you were comfortable  
17 lying because it was better for you; correct?

18 MS. GOLDBERG: Objection to form.

19 A I'm sorry, again?

20 Q You were comfortable lying because  
21 it was better for you; correct?

22 MS. GOLDBERG: Objection to form.

23 A Because it's of use to me.

24 Q Right. You were comfortable lying  
25 because it got you something of use to you;

1 W. Garcia

2 correct?

3 MS. GOLDBERG: Objection to form.

4 Q Correct?

5 A Yes.

6 Q And money would be of use to you  
7 too; correct?

8 MS. GOLDBERG: Objection to form.

9 Q Right?

10 A Yes. But it's not easy -- yes,  
11 but it's not easy to work after 4:00 until 8:00  
12 and 9:00 at night for many years. We get tired.

13 Q Except you didn't work until 9:00  
14 at night. You were off in church at 7:30, so  
15 stop lying again to get what you want.

16 MS. GOLDBERG: Objection to form.

17 Q You've indicated that you're  
18 completely comfortable lying to get what you  
19 want; correct?

20 MS. GOLDBERG: Objection to form.

21 A Sometimes we would get out at 9:00  
22 at night. Other times at 6:00, 5:00.

23 Q And sometimes you would lie to get  
24 something that you wanted; correct?

25 MS. GOLDBERG: Objection to form.

1 W. Garcia

2 Q Sometimes you would lie to get  
3 something that you wanted; correct?

4 MS. GOLDBERG: If you're asking  
5 the question, at least allow him to  
6 answer, Mr. Zabell.

7 Q Correct?

8 MS. GOLDBERG: Objection to form.

9 Q Correct?

10 A (No verbal response.)

11 Q Correct?

12 A (No verbal response.)

13 Q Sometimes you would lie to get  
14 what you want; right?

15 MS. GOLDBERG: Again, allow him a  
16 minute to answer the question.

17 Q Answer the question.

18 A (No verbal response.)

19 Q Answer the question.

20 A What was the question?

21 Q Answer the question.

22 MS. GOLDBERG: Mr. Zabell, please  
23 stop screaming at my client.

24 Q Answer the question.

25 MS. GOLDBERG: If you stop

1 W. Garcia

2 screaming at my client --

3 Q Answer the question.

4 MS. GOLDBERG: Stop screaming at  
5 my client.

6 Q Answer the question.

7 MS. GOLDBERG: Stop screaming at  
8 my client.

9 Q Go ahead, answer the question.

10 MS. GOLDBERG: If you stop  
11 screaming at my client, and like you said  
12 earlier --

13 Q Answer the question.

14 MS. GOLDBERG: Stop screaming,  
15 Mr. Zabell.

16 Q Answer the question.

17 MS. GOLDBERG: Stop screaming.

18 A After screaming so much, can you  
19 repeat it? I forgot.

20 Q You're comfortable lying to get  
21 what you want; correct?

22 MS. GOLDBERG: Objection to form.

23 A With regard to my license, yes.

24 Q So you're comfortable lying to the  
25 State to get something that you want; correct?

1 W. Garcia

2 MS. GOLDBERG: Objection to form.

3 A My license, yes.

4 Q Something you don't deserve;  
5 right?

6 MS. GOLDBERG: Objection to form.

7 Q Correct?

8 A I feel that I do deserve it.

9 Q But you're not a resident of that  
10 state, and you lied and said that you were, in  
11 order to get that document; correct?

12 MS. GOLDBERG: Objection to form.

13 A Yes.

14 Q And you're completely comfortable  
15 with that?

16 MS. GOLDBERG: Objection to form.

17 A Because I need an ID.

18 Q It wasn't necessary for you to get  
19 it.

20 MS. GOLDBERG: Objection to form.

21 Q It was necessary for you to get it  
22 and pretend that you had a real driver's  
23 license; right?

24 MS. GOLDBERG: Objection to form.

25 Q It's not necessary for you to

1 W. Garcia

2 drive.

3 MS. GOLDBERG: Mr. Zabell, again,  
4 please use a normal tone and stop  
5 screaming.

6 A It was necessary for me the way in  
7 which I can obtain a job and have a job.

8 Q You can walk, can't you?

9 A I can't walk from Exit 56 to  
10 Exit 64.

11 Q How about you ride a bicycle? How  
12 about you take a bus?

13 MS. GOLDBERG: Objection.

14 Q How about you get a ride with  
15 somebody else --

16 MS. GOLDBERG: Objection.

17 Q -- who didn't lie to get a  
18 license?

19 MS. GOLDBERG: Objection.

20 Q How about that?

21 MS. GOLDBERG: Objection.

22 Q That would have been inconvenient;  
23 right?

24 MS. GOLDBERG: Objection.

25 A For me, this license has been of

1 W. Garcia

2 great use for me.

3 Q And you're comfortable lying  
4 because something is of great use to you; right?

5 MS. GOLDBERG: Objection to form.

6 Q And you will continue to lie;  
7 right?

8 MS. GOLDBERG: Objection to form.

9 A I -- what I know is of the case  
10 with regard to my job, that is what is of  
11 justice.

12 Q And you're completely comfortable  
13 lying, so long as you get what you want; right?

14 MS. GOLDBERG: Objection.

15 A But in the case with this, with  
16 hours, I am not lying.

17 Q Of course not.

18 That, you didn't lie on, but this  
19 you do lie on; right?

20 MS. GOLDBERG: Objection to form.

21 A Yes.

22 Q How dare I ask you if you lied  
23 about it; right?

24 MS. GOLDBERG: Objection to form.

25 Q Right?

1 W. Garcia

2 MS. GOLDBERG: I don't know what  
3 he's asking, but you can answer.

4 A Yes.

5 Q I have some nerve asking you about  
6 lying to the State of Maryland; right?

7 MS. GOLDBERG: Objection to form.

8 A I am sorry. Can you say it again?

9 Q I have some nerve asking you why  
10 you lied to the State of Maryland; right?

11 MS. GOLDBERG: Objection to form.

12 A No, I don't think so.

13 Q Right.

14 MS. GOLDBERG: For the record --

15 Q Just because you lied to the State  
16 of Maryland, doesn't mean you lied anywhere  
17 else; right?

18 MS. GOLDBERG: Stop screaming at  
19 the plaintiff.

20 A You can call me a liar anywhere,  
21 but my job is my job. The hours that I worked  
22 are there.

23 Q But you already admitted to lying  
24 to the State of Maryland; right?

25 MS. GOLDBERG: Objection.



1 W. Garcia

2 A I've been saying like three times,  
3 yes.

4 Q You admitted to lying to your wife  
5 too; right?

6 MS. GOLDBERG: Objection.

7 Q Right?

8 A (No verbal response.)

9 Q Just on little things; right?

10 A I said that.

11 Q And you're going to lie elsewhere  
12 to get what you want; right?

13 MS. GOLDBERG: He's still talking,  
14 and you're screaming above him,  
15 Mr. Zabell. He's still talking, and  
16 you're screaming above him, not letting  
17 the record reflect what the witness is  
18 saying.

19 MR. ZABELL: Lauren, please remain  
20 silent.

21 MS. GOLDBERG: Mr. Zabell, please  
22 conduct this --

23 MR. ZABELL: You are completely  
24 mischaracterizing exactly what is  
25 happening, and you're acting in a

1 W. Garcia

2 completely manic way. I strongly suggest  
3 that you do whatever it is that you need  
4 to do to have your co-counsel attend the  
5 next depositions, because you clearly do  
6 not appear to be well.

7 MS. GOLDBERG: This needs to be  
8 conducted with a modicum of civility, and  
9 if you continue to conduct it in this  
10 way, we will seek for a referee to be  
11 sitting in on these depositions.

12 MR. ZABELL: You are free to seek  
13 a referee, but I'm telling you now,  
14 Ms. Goldberg, the way you are  
15 mischaracterizing what is happening and  
16 the way you are acting, it is indicative  
17 of someone who is not prepared to  
18 continue with this deposition or any  
19 deposition. Your behavior --

20 MS. GOLDBERG: Mr. Zabell, I  
21 strongly take objection --

22 MR. ZABELL: You should --

23 MS. GOLDBERG: -- especially since  
24 you're screaming for the last  
25 half-an-hour at the witness.

1 W. Garcia

2 MR. ZABELL: I have not been  
3 screaming, Lauren.

4 MS. GOLDBERG: It has been  
5 completely and utterly inappropriate.

6 MR. ZABELL: Lauren, I have no  
7 interest in this colloquy. Just remain  
8 silent.

9 MS. GOLDBERG: Continue with your  
10 deposition and hopefully in a decent tone  
11 for the witness.

12 MR. ZABELL: Again, I agree with  
13 your mischaracterization.

14 MS. GOLDBERG: I knew you would.

15 Q So you've already admitted to  
16 lying to get what you want; correct?

17 A My license, yes.

18 Q And you admitted to lying to your  
19 wife too?

20 MS. GOLDBERG: Objection to form.

21 Q Correct?

22 A I never said lying to my wife.

23 Q Sure you did. The record says it.

24 MS. GOLDBERG: Objection to form.

25 Q Did you ever lie to your attorney?

1 W. Garcia

2 A No.

3 Q Did you ever lie to me?

4 THE WITNESS: I've gotten confused  
5 with him, yes.

6 Q And with the "him" you mean me,  
7 right, so rather than admitting you lied, you're  
8 just saying you got confused as a way to cover  
9 it up; right?

10 MS. GOLDBERG: Objection.

11 Objection to form.

12 A If you're talking about your wife  
13 and my girlfriend, you said to me does your wife  
14 know about this case? And then he said to me --  
15 and I said that it wasn't necessary to tell her  
16 because she already knew. I was speaking about  
17 my wife.

18 Q I'm not asking you about your wife  
19 or your girlfriend anymore. You've already  
20 answered those questions.

21 A Because you're saying -- you're  
22 saying that I am lying.

23 Q I know that you're lying. It's  
24 okay. As soon as you admit it, the better you  
25 will feel about it.

1 W. Garcia

2 MS. GOLDBERG: Objection to form.

3 A What do you want me to admit?

4 Q I want you to admit how  
5 comfortable you are lying to get what you want.  
6 That's what I'd like you to admit to, and once  
7 you admit that, I'll get you go.

8 MS. GOLDBERG: Objection to from.

9 Is that a threat that you're  
10 making to him, Mr. Zabell? What kind of  
11 question is that to him; that you'll let  
12 him go once he admits that?

13 Q Answer the question.

14 MS. GOLDBERG: I take strong  
15 objection to that form.

16 A (No verbal response.)

17 Q Answer the question.

18 A In my job, I never felt  
19 comfortable working after 4:30 in the afternoon,  
20 and that's why I'm here. The lie persists,  
21 continues until the truth arrives, and that's  
22 why I want everything to be cleared.

23 Q So you're lying?

24 MS. GOLDBERG: Objection.

25 Q That's what you just said.

1 W. Garcia

2 A In the case of my hours.

3 Q Didn't you just say that your lie  
4 persists? Didn't those words come out of your  
5 mouth?

6 MS. GOLDBERG: Objection.

7 A I am talking about -- I'm talking  
8 about the hours from my job.

9 Q Wait, wait. You just said "the  
10 lie persists;" correct?

11 MS. GOLDBERG: Objection.

12 A Of all of my jobs -- of all of my  
13 jobs, that is what I'm talking about.

14 Q Listen to what I'm saying. You  
15 just said "the lie persists;" correct?

16 MS. GOLDBERG: Objection to form.  
17 I'm not even sure what the  
18 question is.

19 A Yes, until the truth arrives.

20 Q Right. So you did say "the lie  
21 persists;" correct?

22 Just answer the question.

23 MS. GOLDBERG: Objection to form.

24 A I am here to tell the truth.

25 MR. ZABELL: I'm taking a break.

1 W. Garcia

2 Your lying disgusts me.

3 MS. GOLDBERG: For the record --

4 MR. ZABELL: I don't care about  
5 your record.

6 MS. GOLDBERG: I want all  
7 questions and all answers regarding the  
8 Maryland license to be deemed  
9 confidential.

10 MR. ZABELL: I do not consent to  
11 her unilateral request that it be deemed  
12 confidential.

13 You know what you need to do to  
14 test your position that it will be  
15 confidential, and I'm letting you know  
16 now, it's already reported.

17 MS. GOLDBERG: Why don't you go  
18 back and review the agreement where this  
19 is exactly what it says?

20 MR. ZABELL: It's already been  
21 reported.

22 (Whereupon, a recess was taken at  
23 this time from 5:33 p.m. until 5:44 p.m.)

24 Q Mr. Garcia?

25 A Yes, sir.

1 W. Garcia

2 Q Why do you have such difficulty  
3 answering the questions that I ask you?

4 MS. GOLDBERG: Objection to form.

5 A Why what?

6 Q Why do you have such difficulty  
7 answering the questions I ask you?

8 MS. GOLDBERG: Objection.

9 A Because I feel that what you need  
10 to ask me is for my job, for my hours. That's  
11 why I'm here.

12 Q I'm the lawyer. You understand  
13 that; right?

14 A Yes, and this is your job.

15 Q And you're the plaintiff?

16 A Yes.

17 Q Your job is to answer my  
18 questions.

19 Do you understand that?

20 A Yes.

21 Q So I ask you: Is it day or night  
22 right now?

23 MS. GOLDBERG: Objection.

24 A Day.

25 Q If I ask you: Are we in a room,



1 W. Garcia

2 what is your answer?

3 A That, yes.

4 Q Yes, what?

5 A We are inside.

6 Q If I ask you: Am I bald, what is  
7 your answer?

8 MS. GOLDBERG: Objection.

9 A That, yes.

10 Q If I ask you: Is your attorney  
11 angry; what is your answer?

12 MS. GOLDBERG: Objection.

13 A Bothered.

14 Q So she's bothered?

15 MS. GOLDBERG: Objection.

16 A Yes.

17 Q Okay. I want you to try very hard  
18 just to answer the questions that I ask you.  
19 That will help us wrap this deposition up and  
20 get you home to your family or whoever else you  
21 want to spend time with; okay?

22 A I need to go to church.

23 Q Are you cable of answering my  
24 questions?

25 A Yes.

1 W. Garcia

2 Q Do you feel you need to go to  
3 church because you've lied today?

4 MS. GOLDBERG: Objection.

5 A I go to the church so that my sins  
6 can be forgiven. That is the only place where I  
7 can find that.

8 Q And you need to go to church  
9 today; right?

10 MS. GOLDBERG: Objection.

11 A Today and tomorrow.

12 Q Because you have a lot sins.

13 A Like any other person.

14 Q But today you have a lot more;  
15 right?

16 A Like every day, if God permits me  
17 to go to church, I know what I'm going for.

18 Q Do you have a lot of sins to  
19 confess for?

20 MS. GOLDBERG: Objection.

21 A Like any other person.

22 Q Is that a yes?

23 MS. GOLDBERG: Objection.

24 A Yes.

25 MR. ZABELL: I have nothing

1 W. Garcia

2 further.

3 Maybe next time we will meet under  
4 better circumstances.

5 I ask that when you leave, you  
6 leave quickly, and you escort your  
7 attorney out of here. Thank you.

8 THE WITNESS: We all need to go to  
9 church to forgive our sins.

10 MS. GOLDBERG: Mr. Garcia, we're  
11 done.

12 (Time Noted: 5:50 p.m.)

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A C K N O W L E D G E M E N T

STATE OF NEW YORK )

: ss

COUNTY OF )

I, WALTER GARCIA, hereby certify that I  
have read the transcript of my testimony taken  
under oath in my deposition of September 21, 2011;  
that the transcript is a true, complete and  
correct record of my testimony; and that the  
answers on the record as given by me are true  
and correct.

\_\_\_\_\_

WALTER GARCIA

Signed and subscribed to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public, State of New York

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C E R T I F I C A T E

I, KAREN M. LaMENDOLA, a Notary Public in  
and for the State of New York, do hereby certify:

THAT the witness whose testimony is  
hereinbefore set forth, was duly sworn by me;  
and

THAT the within transcript is a true  
record of the testimony given by said witness.

I further certify that I am not related,  
either by blood or marriage, to any of the  
parties in this action; and

THAT I am in no way interested in the  
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 20th day of October, 2011.

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KAREN M. LaMENDOLA

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ERRATA SHEET

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